

AMENDED IN ASSEMBLY JUNE 19, 2000

AMENDED IN ASSEMBLY JUNE 2, 2000

AMENDED IN SENATE APRIL 24, 2000

AMENDED IN SENATE MARCH 27, 2000

SENATE BILL

No. 1955

**Introduced by Committee on Public Safety (Senators
Vasconcellos (Chair), Burton, Johnston, McPherson,
Polanco, and Rainey)**

February 24, 2000

An act to amend Section 1560 of the Evidence Code, to amend Sections 190.9, 209, 266c, 273.5, 289.6, 290, 347, 600, 667.71, 832.6, 976.5, 999l, 1170.11, 1170.17, 1174.4, 1240.1, 2933.5, 3046, 11160, 11165.1, 12020, 12022.53, and 12280 of the Penal Code, and to amend Sections 21221.5 and 23612 of the Vehicle Code, and to amend Sections 727.4 and 15610.63 of, and to amend and renumber Section 727.2 of, the Welfare and Institutions Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1955, as amended, Committee on Public Safety. Public safety.

(1) Existing law deems satisfied the training requirements of a reserve officer who has previously satisfied the training requirements of the Commission on Peace Officer Standards and Training and has been serving as a level I or II reserve officer in a law enforcement agency, even if that reserve

officer accepts a new appointment at the same level in another law enforcement agency.

This bill would require a reserve officer to satisfy current training requirements if there has been more than a 3-year break in service. By increasing the duties of local officials, this bill would impose a state-mandated local program.

(2) Existing law authorizes the prosecution and punishment of a person under the age of 18 years as an adult for a criminal offense under specified circumstances upon a finding that the person is not a fit and proper subject to be dealt with under the juvenile court law. Existing statutory language provides that, except as otherwise provided, a person prosecuted under this provision must be sentenced under the juvenile court law unless the district attorney demonstrates by a preponderance of the evidence, that the person is a fit and proper subject to be dealt with under the juvenile court law based upon 5 specified circumstances.

This bill would amend that provision to correct that statutory language by providing that, except as otherwise provided, a person prosecuted under this provision must be sentenced under the juvenile court law unless the district attorney demonstrates by a preponderance of the evidence, that the person is not a fit and proper subject to be dealt with under the juvenile court law as specified.

(3) *Existing law provides that when an accusatory pleading is filed in Sierra County, and the defendant is in the custody of Nevada County, the defendant may be arraigned in Nevada County. Existing law also provides for repeal of these provisions on January 1, 2001.*

This bill would instead provide that these provisions would be repealed on January 1, 2005.

(4) Existing law specifies that a person who drives a motor vehicle is deemed to have given his or her consent to a chemical test of his or her blood or breath for the purpose of determining the alcoholic content of the blood if lawfully arrested for violating a specified provision of law.

This bill would correct a cross-reference in this provision.

~~(4)~~

(5) Existing law provides that the court in any noncapital criminal, juvenile court, or civil commitment case shall assign



a court reporter who uses computer aided transcription equipment to report all proceedings, as specified.

This bill would delete this assignment requirement imposed upon a court in a noncapital criminal, juvenile court, or civil commitment case and place the requirement instead on the municipal and superior courts in which proceedings are conducted in any case in which a death sentence may be imposed.

~~(5)~~

(6) This bill would also make numerous technical, clarifying, and nonsubstantive changes to various provisions of the Evidence, Penal, Vehicle, and Welfare and Institutions Codes.

~~(6)~~

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1560 of the Evidence Code is
2 amended to read:

3 1560. (a) As used in this article:

4 (1) "Business" includes every kind of business
5 described in Section 1270.

6 (2) "Record" includes every kind of record
7 maintained by a business.

8 (b) Except as provided in Section 1564, when a
9 subpoena duces tecum is served upon the custodian of



1 records or other qualified witness of a business in an
2 action in which the business is neither a party nor the
3 place where any cause of action is alleged to have arisen,
4 and the subpoena requires the production of all or any
5 part of the records of the business, it is sufficient
6 compliance therewith if the custodian or other qualified
7 witness, within five days after the receipt of the subpoena
8 in any criminal action or within the time agreed upon by
9 the party who served the subpoena and the custodian or
10 other qualified witness, or within 15 days after the receipt
11 of the subpoena in any civil action or within the time
12 agreed upon by the party who served the subpoena and
13 the custodian or other qualified witness, delivers by mail
14 or otherwise a true, legible, and durable copy of all the
15 records described in the subpoena to the clerk of the
16 court or to the judge if there be no clerk or to another
17 person described in subdivision (c) of Section 2026 of the
18 Code of Civil Procedure, together with the affidavit
19 described in Section 1561.

20 (c) The copy of the records shall be separately
21 enclosed in an inner envelope or wrapper, sealed, with
22 the title and number of the action, name of witness, and
23 date of subpoena clearly inscribed thereon; the sealed
24 envelope or wrapper shall then be enclosed in an outer
25 envelope or wrapper, sealed, and directed as follows:

26 (1) If the subpoena directs attendance in court, to the
27 clerk of the court, or to the judge thereof if there be no
28 clerk.

29 (2) If the subpoena directs attendance at a deposition,
30 to the officer before whom the deposition is to be taken,
31 at the place designated in the subpoena for the taking of
32 the deposition or at the officer's place of business.

33 (3) In other cases, to the officer, body, or tribunal
34 conducting the hearing, at a like address.

35 (d) Unless the parties to the proceeding otherwise
36 agree, or unless the sealed envelope or wrapper is
37 returned to a witness who is to appear personally, the
38 copy of the records shall remain sealed and shall be
39 opened only at the time of trial, deposition, or other
40 hearing, upon the direction of the judge, officer, body, or



1 tribunal conducting the proceeding, in the presence of all
2 parties who have appeared in person or by counsel at the
3 trial, deposition, or hearing. Records which are original
4 documents and which are not introduced in evidence or
5 required as part of the record shall be returned to the
6 person or entity from whom received. Records which are
7 copies may be destroyed.

8 (e) As an alternative to the procedures described in
9 subdivisions (b), (c), and (d), the subpoenaing party may
10 direct the witness to make the records available for
11 inspection or copying by the party's attorney, the
12 attorney's representative, or deposition officer as
13 described in paragraph (3) of subdivision (d) of Section
14 2020 of the Code of Civil Procedure, at the witness'
15 business address under reasonable conditions during
16 normal business hours. Normal business hours, as used in
17 this subdivision, means those hours that the business of
18 the witness is normally open for business to the public.
19 When provided with at least five business days' advance
20 notice by the party's attorney, attorney's representative,
21 or deposition officer, the witness shall designate a time
22 period of not less than six continuous hours on a date
23 certain for copying of records subject to the subpoena by
24 the party's attorney, attorney's representative or
25 deposition officer. It shall be the responsibility of the
26 attorney's representative to deliver any copy of the
27 records as directed in the subpoena. Disobedience to the
28 deposition subpoena issued pursuant to this subdivision is
29 punishable as provided in subdivision (h) of Section 2020
30 of the Code of Civil Procedure.

31 SEC. 2. Section 190.9 of the Penal Code is amended to
32 read:

33 190.9. (a) (1) In any case in which a death sentence
34 may be imposed, all proceedings conducted in the
35 municipal and superior courts, including all conferences
36 and proceedings, whether in open court, in conference in
37 the courtroom, or in chambers, shall be conducted on the
38 record with a court reporter present. The court reporter
39 shall prepare and certify a daily transcript of all
40 proceedings commencing with the preliminary hearing.

1 Proceedings prior to the preliminary hearing shall be
2 reported but need not be transcribed until the municipal
3 or superior court receives notice as prescribed in
4 paragraph (2) of subdivision (a).

5 (2) Upon receiving notification from the prosecution
6 that the death penalty is being sought, the superior court
7 shall notify the court in which the preliminary hearing
8 took place. Upon this notification, the court in which the
9 preliminary hearing took place shall order the
10 transcription and preparation of the record of all
11 proceedings prior to and including the preliminary
12 hearing in the manner prescribed by the Judicial Council
13 in the rules of court. The record of all proceedings prior
14 to and including the preliminary hearing shall be
15 certified by the court no later than 120 days following
16 notification by the superior court unless the superior
17 court grants an extension of time pursuant to rules of
18 court adopted by the Judicial Council. Upon certification,
19 the court in which the preliminary hearing took place
20 shall forward the record to the superior court for
21 incorporation into the superior court record.

22 (b) (1) The court shall assign a court reporter who
23 uses computer-aided transcription equipment to report
24 all proceedings under this section.

25 (2) Failure to comply with the requirements of this
26 section relating to the assignment of court reporters who
27 use computer-aided transcription equipment shall not be
28 a ground for reversal.

29 (c) Any computer-readable transcript produced by
30 court reporters pursuant to this section shall conform to
31 the requirements of subdivision (c) of Section 269 of the
32 Code of Civil Procedure.

33 SEC. 3. Section 209 of the Penal Code is amended to
34 read:

35 209. (a) Any person who seizes, confines, inveigles,
36 entices, decoys, abducts, conceals, kidnaps or carries
37 away another person by any means whatsoever with
38 intent to hold or detain, or who holds or detains, that
39 person for ransom, reward or to commit extortion or to
40 exact from another person any money or valuable thing,

1 or any person who aids or abets any such act, is guilty of
2 a felony, and upon conviction thereof, shall be punished
3 by imprisonment in the state prison for life without
4 possibility of parole in cases in which any person
5 subjected to any such act suffers death or bodily harm, or
6 is intentionally confined in a manner which exposes that
7 person to a substantial likelihood of death, or shall be
8 punished by imprisonment in the state prison for life with
9 the possibility of parole in cases where no such person
10 suffers death or bodily harm.

11 (b) (1) Any person who kidnaps or carries away any
12 individual to commit robbery, rape, spousal rape, oral
13 copulation, sodomy, or sexual penetration in violation of
14 Section 289, shall be punished by imprisonment in the
15 state prison for life with possibility of parole.

16 (2) This subdivision shall only apply if the movement
17 of the victim is beyond that merely incidental to the
18 commission of, and increases the risk of harm to the
19 victim over and above that necessarily present in, the
20 intended underlying offense.

21 (c) In all cases in which probation is granted, the court
22 shall, except in unusual cases where the interests of justice
23 would best be served by a lesser penalty, require as a
24 condition of the probation that the person be confined in
25 the county jail for 12 months. If the court grants probation
26 without requiring the defendant to be confined in the
27 county jail for 12 months, it shall specify its reason or
28 reasons for imposing a lesser penalty.

29 (d) Subdivision (b) shall not be construed to
30 supersede or affect Section 667.61. A person may be
31 charged with a violation of subdivision (b) and Section
32 667.61. However, a person may not be punished under
33 subdivision (b) and Section 667.61 for the same act that
34 constitutes a violation of both subdivision (b) and Section
35 667.61.

36 SEC. 4. Section 266c of the Penal Code is amended to
37 read:

38 266c. Every person who induces any other person to
39 engage in sexual intercourse, sexual penetration, oral
40 copulation, or sodomy when his or her consent is

1 procured by false or fraudulent representation or
2 pretense that is made with the intent to create fear, and
3 which does induce fear, and that would cause a
4 reasonable person in like circumstances to act contrary to
5 the person's free will, and does cause the victim to so act,
6 is punishable by imprisonment in a county jail for not
7 more than one year or in the state prison for two, three,
8 or four years.

9 As used in this section, "fear" means the fear of physical
10 injury or death to the person or to any relative of the
11 person or member of the person's family.

12 SEC. 5. Section 273.5 of the Penal Code is amended to
13 read:

14 273.5. (a) Any person who willfully inflicts upon a
15 person who is his or her spouse, former spouse,
16 cohabitant, former cohabitant, or the mother or father of
17 his or her child, corporal injury resulting in a traumatic
18 condition, is guilty of a felony, and upon conviction
19 thereof shall be punished by imprisonment in the state
20 prison for two, three, or four years, or in a county jail for
21 not more than one year, or by a fine of up to six thousand
22 dollars (\$6,000) or by both that fine and imprisonment.

23 (b) Holding oneself out to be the husband or wife of
24 the person with whom one is cohabiting is not necessary
25 to constitute cohabitation as the term is used in this
26 section.

27 (c) As used in this section, "traumatic condition"
28 means a condition of the body, such as a wound or
29 external or internal injury, whether of a minor or serious
30 nature, caused by a physical force.

31 (d) For the purpose of this section, a person shall be
32 considered the father or mother of another person's child
33 if the alleged male parent is presumed the natural father
34 under Sections 7611 and 7612 of the Family Code.

35 (e) Any person convicted of violating this section for
36 acts occurring within seven years of a previous conviction
37 under subdivision (a), or subdivision (d) of Section 243,
38 or Section 243.4, 244, 244.5, or 245, shall be punished by
39 imprisonment in a county jail for not more than one year,
40 or by imprisonment in the state prison for two, four, or

1 five years, or by both imprisonment and a fine of up to ten
2 thousand dollars (\$10,000).

3 (f) If probation is granted to any person convicted
4 under subdivision (a), the court shall impose probation
5 consistent with the provisions of Section 1203.097.

6 (g) If probation is granted, or the execution or
7 imposition of a sentence is suspended, for any defendant
8 convicted under subdivision (a) who has been convicted
9 of any prior offense specified in subdivision (e), the court
10 shall impose one of the following conditions of probation:

11 (1) If the defendant has suffered one prior conviction
12 within the previous seven years for a violation of any
13 offense specified in subdivision (e), it shall be a condition
14 thereof, in addition to the provisions contained in Section
15 1203.097, that he or she be imprisoned in a county jail for
16 not less than 15 days.

17 (2) If the defendant has suffered two or more prior
18 convictions within the previous seven years for a violation
19 of any offense specified in subdivision (e), it shall be a
20 condition of probation, in addition to the provisions
21 contained in Section 1203.097, that he or she be
22 imprisoned in a county jail for not less than 60 days.

23 (3) The court, upon a showing of good cause, may find
24 that the mandatory imprisonment required by this
25 subdivision shall not be imposed and shall state on the
26 record its reasons for finding good cause.

27 (h) If probation is granted upon conviction of a
28 violation of subdivision (a), the conditions of probation
29 may include, consistent with the terms of probation
30 imposed pursuant to Section 1203.097, in lieu of a fine, one
31 or both of the following requirements:

32 (1) That the defendant make payments to a battered
33 women's shelter, up to a maximum of five thousand
34 dollars (\$5,000), pursuant to Section 1203.097.

35 (2) That the defendant reimburse the victim for
36 reasonable costs of counseling and other reasonable
37 expenses that the court finds are the direct result of the
38 defendant's offense.

39 For any order to pay a fine, make payments to a
40 battered women's shelter, or pay restitution as a

1 condition of probation under this subdivision, the court
2 shall make a determination of the defendant's ability to
3 pay. In no event shall any order to make payments to a
4 battered women's shelter be made if it would impair the
5 ability of the defendant to pay direct restitution to the
6 victim or court-ordered child support. Where the injury
7 to a married person is caused in whole or in part by the
8 criminal acts of his or her spouse in violation of this
9 section, the community property may not be used to
10 discharge the liability of the offending spouse for
11 restitution to the injured spouse, required by Section
12 1203.04, as operative on or before August 2, 1995, or
13 Section 1202.4, or to a shelter for costs with regard to the
14 injured spouse and dependents, required by this section,
15 until all separate property of the offending spouse is
16 exhausted.

17 SEC. 6. Section 289.6 of the Penal Code is amended to
18 read:

19 289.6. (a) (1) An employee or officer of a public
20 entity health facility, or an employee, officer, or agent of
21 a private person or entity that provides a health facility
22 or staff for a health facility under contract with a public
23 entity, who engages in sexual activity with a consenting
24 adult who is confined in a health facility is guilty of a
25 public offense. As used in this paragraph, "health facility"
26 means a health facility as defined in subdivisions (b), (e),
27 (g), (h), and (j), and subparagraph (C) of paragraph (2)
28 of subdivision (i) of Section 1250 of the Health and Safety
29 Code, in which the victim has been confined
30 involuntarily.

31 (2) An employee or officer of a public entity detention
32 facility, or an employee, officer, or agent of a private
33 person or entity that provides a detention facility or staff
34 for a detention facility, or person or agent of a public or
35 private entity under contract with a detention facility, or
36 a volunteer of a private or public entity detention facility,
37 who engages in sexual activity with a consenting adult
38 who is confined in a detention facility, is guilty of a public
39 offense.

1 (3) An employee with a department, board, or
2 authority under the Youth and Adult Correctional
3 Agency or a facility under contract with a department,
4 board, or authority under the Youth and Adult
5 Correctional Agency, who, during the course of his or her
6 employment directly provides treatment, care, control,
7 or supervision of inmates, wards, or parolees, and who
8 engages in sexual activity with a consenting adult who is
9 an inmate, ward, or parolee, is guilty of a public offense.

10 (b) As used in this section, the term “public entity”
11 means the state, federal government, a city, a county, a
12 city and county, a joint county jail district, or any entity
13 created as a result of a joint powers agreement between
14 two or more public entities.

15 (c) As used in this section, the term “detention
16 facility” means:

17 (1) A prison, jail, camp, or other correctional facility
18 used for the confinement of adults or both adults and
19 minors.

20 (2) A building or facility used for the confinement of
21 adults or adults and minors pursuant to a contract with a
22 public entity.

23 (3) A room that is used for holding persons for
24 interviews, interrogations, or investigations and that is
25 separate from a jail or located in the administrative area
26 of a law enforcement facility.

27 (4) A vehicle used to transport confined persons
28 during their period of confinement.

29 (5) A court holding facility located within or adjacent
30 to a court building that is used for the confinement of
31 persons for the purpose of court appearances.

32 (d) As used in this section, “sexual activity” means:

33 (1) Sexual intercourse.

34 (2) Sodomy, as defined in subdivision (a) of Section
35 286.

36 (3) Oral copulation, as defined in subdivision (a) of
37 Section 288a.

38 (4) Sexual penetration, as defined in subdivision (k) of
39 Section 289.

1 (5) The rubbing or touching of the breasts or sexual
2 organs of another, or of oneself in the presence of and
3 with knowledge of another, with the intent of arousing,
4 appealing to, or gratifying the lust, passions, or sexual
5 desires of oneself or another.

6 (e) Consent by a confined person or parolee to sexual
7 activity proscribed by this section is not a defense to a
8 criminal prosecution for violation of this section.

9 (f) This section does not apply to sexual activity
10 between consenting adults that occurs during an
11 overnight conjugal visit that takes place pursuant to a
12 court order or with the written approval of an authorized
13 representative of the public entity that operates or
14 contracts for the operation of the detention facility where
15 the conjugal visit takes place, to physical contact or
16 penetration made pursuant to a lawful search, or bona
17 fide medical examinations or treatments, including
18 clinical treatments.

19 (g) Any violation of paragraph (1) of subdivision (a),
20 or a violation of paragraph (2) or (3) of subdivision (a)
21 as described in paragraph (5) of subdivision (d), is a
22 misdemeanor.

23 (h) Any violation of paragraph (2) or (3) of
24 subdivision (a), as described in paragraph (1), (2), (3), or
25 (4) of subdivision (d), shall be punished by imprisonment
26 in a county jail not exceeding one year, or in the state
27 prison, or by a fine of not more than ten thousand dollars
28 (\$10,000) or by both that fine and imprisonment.

29 (i) Any person previously convicted of a violation of
30 this section shall, upon a subsequent violation, be guilty
31 of a felony.

32 (j) Anyone who is convicted of a felony violation of this
33 section who is employed by a department, board, or
34 authority within the Youth and Adult Correctional
35 Agency shall be terminated in accordance with the State
36 Civil Service Act (Part 2 (commencing with Section
37 18500) of Title 2 of Division 5 of the Government Code).
38 Anyone who has been convicted of a felony violation of
39 this section shall not be eligible to be hired or reinstated

1 by a department, board, or authority within the Youth
2 and Adult Correctional Agency.

3 SEC. 7. Section 290 of the Penal Code is amended to
4 read:

5 290. (a) (1) (A) Every person described in
6 paragraph (2), for the rest of his or her life while residing
7 in, or, if he or she has no residence, while located within
8 California, or while attending school or working in
9 California, as described in subparagraph (G), shall be
10 required to register with the chief of police of the city in
11 which he or she is residing, or if he or she has no residence,
12 is located, or the sheriff of the county if he or she is
13 residing, or if he or she has no residence, is located, in an
14 unincorporated area or city that has no police
15 department, and, additionally, with the chief of police of
16 a campus of the University of California, the California
17 State University, or community college if he or she is
18 residing, or if he or she has no residence, is located upon
19 the campus or in any of its facilities, within five working
20 days of coming into, or changing his or her residence or
21 location within, any city, county, or city and county, or
22 campus in which he or she temporarily resides, or, if he
23 or she has no residence, is located.

24 (B) If the person who is registering has more than one
25 residence address or location at which he or she regularly
26 resides or is located, he or she shall register in accordance
27 with subparagraph (A) in each of the jurisdictions in
28 which he or she regularly resides or is located. If all of the
29 addresses or locations are within the same jurisdiction,
30 the person shall provide the registering authority with all
31 of the addresses or locations where he or she regularly
32 resides or is located.

33 (C) If the person who is registering has no residence
34 address, he or she shall update his or her registration no
35 less than once every 90 days in addition to the
36 requirement in subparagraph (A), on a form as may be
37 required by the Department of Justice, with the entity or
38 entities described in subparagraph (A) in whose
39 jurisdiction he or she is located at the time he or she is
40 updating the registration.

1 (D) Beginning on his or her first birthday following
2 registration or change of address, the person shall be
3 required to register annually, within five working days of
4 his or her birthday, to update his or her registration with
5 the entities described in subparagraph (A), including,
6 verifying his or her name and address, or temporary
7 location, and place of employment including the name
8 and address of the employer, on a form as may be
9 required by the Department of Justice.

10 (E) In addition, every person who has ever been
11 adjudicated a sexually violent predator, as defined in
12 Section 6600 of the Welfare and Institutions Code, shall,
13 after his or her release from custody, verify his or her
14 address no less than once every 90 days and place of
15 employment, including the name and address of the
16 employer, in a manner established by the Department of
17 Justice.

18 (F) No entity shall require a person to pay a fee to
19 register or update his or her registration pursuant to this
20 section. The registering agency shall submit registrations,
21 including annual updates or changes of address, directly
22 into the Department of Justice Violent Crime
23 Information Network (VCIN).

24 (G) Persons required to register in their state of
25 residence who are out-of-state residents employed in
26 California on a full-time or part-time basis, with or
27 without compensation, for more than 14 days, or for an
28 aggregate period exceeding 30 days in a calendar year,
29 shall register in accordance with subparagraph (A).
30 Persons described in paragraph (2) who are out-of-state
31 residents enrolled in any educational institution in
32 California, as defined in Section 22129 of the Education
33 Code, on a full-time or part-time basis, shall register in
34 accordance with subparagraph (A). The place where the
35 out-of-state resident is located, for purposes of
36 registration, shall be the place where the person is
37 employed or attending school. The out-of-state resident
38 subject to this subparagraph shall, in addition to the
39 information required pursuant to subdivision (e),
40 provide the registering authority with the name of his or

1 her place of employment or the name of the school
2 attended in California, and his or her address or location
3 in his or her state of residence. The registration
4 requirement for persons subject to this subparagraph
5 shall become operative on November 25, 2000.

6 (2) The following persons shall be required to register
7 pursuant to paragraph (1):

8 (A) Any person who, since July 1, 1944, has been or is
9 hereafter convicted in any court in this state or in any
10 federal or military court of a violation of Section 207 or 209
11 committed with intent to violate Section 261, 286, 288,
12 288a, or 289, Section 220, except assault to commit
13 mayhem, Section 243.4, paragraph (1), (2), (3), (4), or
14 (6) of subdivision (a) of Section 261, or paragraph (1) of
15 subdivision (a) of Section 262 involving the use of force
16 or violence for which the person is sentenced to the state
17 prison, Section 264.1, 266, 266c, subdivision (b) of Section
18 266h, subdivision (b) of Section 266i, 266j, 267, 269, 285,
19 286, 288, 288a, 288.5, or 289, subdivision (b), (c), or (d) of
20 Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6,
21 former Section 647a, subdivision (c) of Section 653f,
22 subdivision 1 or 2 of Section 314, any offense involving
23 lewd or lascivious conduct under Section 272, or any
24 felony violation of Section 288.2; or any person who since
25 that date has been or is hereafter convicted of the attempt
26 to commit any of the above-mentioned offenses.

27 (B) Any person who, since July 1, 1944, has been or
28 hereafter is released, discharged, or paroled from a penal
29 institution where he or she was confined because of the
30 commission or attempted commission of one of the
31 offenses described in subparagraph (A).

32 (C) Any person who, since July 1, 1944, has been or
33 hereafter is determined to be a mentally disordered sex
34 offender under Article 1 (commencing with Section
35 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare
36 and Institutions Code or any person who has been found
37 guilty in the guilt phase of a trial for an offense for which
38 registration is required by this section but who has been
39 found not guilty by reason of insanity in the sanity phase
40 of the trial.

1 (D) Any person who, since July 1, 1944, has been, or is
2 hereafter convicted in any other court, including any
3 state, federal, or military court, of any offense which, if
4 committed or attempted in this state, would have been
5 punishable as one or more of the offenses described in
6 subparagraph (A) or any person ordered by any other
7 court, including any state, federal, or military court, to
8 register as a sex offender for any offense, if the court
9 found at the time of conviction or sentencing that the
10 person committed the offense as a result of sexual
11 compulsion or for purposes of sexual gratification.

12 (E) Any person ordered by any court to register
13 pursuant to this section for any offense not included
14 specifically in this section if the court finds at the time of
15 conviction or sentencing that the person committed the
16 offense as a result of sexual compulsion or for purposes of
17 sexual gratification. The court shall state on the record the
18 reasons for its findings and the reasons for requiring
19 registration.

20 (F) (i) Notwithstanding any other subdivision, a
21 person who was convicted before January 1, 1976, under
22 subdivision (a) of Section 286, or Section 288a, shall not be
23 required to register pursuant to this section for that
24 conviction if the conviction was for conduct between
25 consenting adults that was decriminalized by Chapter 71
26 of the Statutes of 1975 or Chapter 1139 of the Statutes of
27 1976. The Department of Justice shall remove that person
28 from the Sex Offender Registry, and the person is
29 discharged from his or her duty to register pursuant to the
30 following procedure:

31 (I) The person submits to the Department of Justice
32 official documentary evidence, including court records or
33 police reports, which demonstrate that the person's
34 conviction pursuant to either of those sections was for
35 conduct between consenting adults that was
36 decriminalized; or

37 (II) The person submits to the department a
38 declaration stating that the person's conviction pursuant
39 to either of those sections was for consensual conduct
40 between adults that has been decriminalized. The

1 declaration shall be confidential and not a public record,
2 and shall include the person's name, address, telephone
3 number, date of birth, and a summary of the
4 circumstances leading to the conviction, including the
5 date of the conviction and county of the occurrence.

6 (III) The department shall determine whether the
7 person's conviction was for conduct between consensual
8 adults that has been decriminalized. If the conviction was
9 for consensual conduct between adults that has been
10 decriminalized, and the person has no other offenses for
11 which he or she is required to register pursuant to this
12 section, the department shall, within 60 days of receipt of
13 those documents, notify the person that he or she is
14 relieved of the duty to register, and shall notify the local
15 law enforcement agency with which the person is
16 registered that he or she has been relieved of the duty to
17 register. The local law enforcement agency shall remove
18 the person's registration from its files within 30 days of
19 receipt of notification. If the documentary or other
20 evidence submitted is insufficient to establish the
21 person's claim, the department shall, within 60 days of
22 receipt of those documents, notify the person that his or
23 her claim cannot be established, and that the person shall
24 continue to register pursuant to this section. The
25 department shall provide, upon the person's request, any
26 information relied upon by the department in making its
27 determination that the person shall continue to register
28 pursuant to this section. Any person whose claim has been
29 denied by the department pursuant to this clause may
30 petition the court to appeal the department's denial of
31 the person's claim.

32 (ii) On or before July 1, 1998, the department shall
33 make a report to the Legislature concerning the status of
34 persons who may come under the provisions of this
35 subparagraph, including the number of persons who
36 were convicted before January 1, 1976, under subdivision
37 (a) of Section 286 or Section 288a and are required to
38 register under this section, the average age of these
39 persons, the number of these persons who have any
40 subsequent convictions for a registerable sex offense, and

1 the number of these persons who have sought successfully
2 or unsuccessfully to be relieved of their duty to register
3 under this section.

4 (b) (1) Any person who is released, discharged, or
5 paroled from a jail, state or federal prison, school, road
6 camp, or other institution where he or she was confined
7 because of the commission or attempted commission of
8 one of the offenses specified in subdivision (a) or is
9 released from a state hospital to which he or she was
10 committed as a mentally disordered sex offender under
11 Article 1 (commencing with Section 6300) of Chapter 2
12 of Part 2 of Division 6 of the Welfare and Institutions
13 Code, shall, prior to discharge, parole, or release, be
14 informed of his or her duty to register under this section
15 by the official in charge of the place of confinement or
16 hospital, and the official shall require the person to read
17 and sign any form that may be required by the
18 Department of Justice, stating that the duty of the person
19 to register under this section has been explained to the
20 person. The official in charge of the place of confinement
21 or hospital shall obtain the address where the person
22 expects to reside upon his or her discharge, parole, or
23 release and shall report the address to the Department of
24 Justice.

25 (2) The official in charge of the place of confinement
26 or hospital shall give one copy of the form to the person
27 and shall send one copy to the Department of Justice and
28 one copy to the appropriate law enforcement agency or
29 agencies having jurisdiction over the place the person
30 expects to reside upon discharge, parole, or release. If the
31 conviction that makes the person subject to this section
32 is a felony conviction, the official in charge shall, not later
33 than 45 days prior to the scheduled release of the person,
34 send one copy to the appropriate law enforcement
35 agency or agencies having local jurisdiction where the
36 person expects to reside upon discharge, parole, or
37 release; one copy to the prosecuting agency that
38 prosecuted the person; and one copy to the Department
39 of Justice. The official in charge of the place of
40 confinement or hospital shall retain one copy.



1 (c) Any person who is convicted in this state of the
2 commission or attempted commission of any of the
3 offenses specified in subdivision (a) and who is released
4 on probation, granted conditional release without
5 supervised probation, or discharged upon payment of a
6 fine shall, prior to release or discharge, be informed of the
7 duty to register under this section by the probation
8 department, and a probation officer shall require the
9 person to read and sign any form that may be required by
10 the Department of Justice, stating that the duty of the
11 person to register under this section has been explained
12 to him or her. The probation officer shall obtain the
13 address where the person expects to reside upon release
14 or discharge and shall report within three days the
15 address to the Department of Justice. The probation
16 officer shall give one copy of the form to the person, send
17 one copy to the Department of Justice, and forward one
18 copy to the appropriate law enforcement agency or
19 agencies having local jurisdiction where the person
20 expects to reside upon his or her discharge, parole, or
21 release.

22 (d) (1) Any person who, on or after January 1, 1986,
23 is discharged or paroled from the Department of the
24 Youth Authority to the custody of which he or she was
25 committed after having been adjudicated a ward of the
26 juvenile court pursuant to Section 602 of the Welfare and
27 Institutions Code because of the commission or
28 attempted commission of any offense described in
29 paragraph (3) shall be subject to registration under the
30 procedures of this section.

31 (2) Any person who is discharged or paroled from a
32 facility in another state that is equivalent to the
33 Department of the Youth Authority, to the custody of
34 which he or she was committed because of an offense
35 which, if committed or attempted in this state, would
36 have been punishable as one or more of the offenses
37 described in paragraph (3), shall be subject to
38 registration under the procedures of this section.

39 (3) Any person described in this subdivision who
40 committed an offense in violation of any of the following

1 provisions shall be required to register pursuant to this
2 section:

3 (A) Assault with intent to commit rape, sodomy, oral
4 copulation, or any violation of Section 264.1, 288, or 289
5 under Section 220.

6 (B) Any offense defined in paragraph (1), (2), (3),
7 (4), or (6) of subdivision (a) of Section 261, Section 264.1,
8 266c, or 267, paragraph (1) of subdivision (b) of, or
9 subdivision (c) or (d) of, Section 286, Section 288 or 288.5,
10 paragraph (1) of subdivision (b) of, or subdivision (c) or
11 (d) of, Section 288a, subdivision (a) of Section 289, or
12 Section 647.6.

13 (C) A violation of Section 207 or 209 committed with
14 the intent to violate Section 261, 286, 288, 288a, or 289.

15 (4) Prior to discharge or parole from the Department
16 of the Youth Authority, any person who is subject to
17 registration under this subdivision shall be informed of
18 the duty to register under the procedures set forth in this
19 section. Department of the Youth Authority officials shall
20 transmit the required forms and information to the
21 Department of Justice.

22 (5) All records specifically relating to the registration
23 in the custody of the Department of Justice, law
24 enforcement agencies, and other agencies or public
25 officials shall be destroyed when the person who is
26 required to register has his or her records sealed under
27 the procedures set forth in Section 781 of the Welfare and
28 Institutions Code. This subdivision shall not be construed
29 as requiring the destruction of other criminal offender or
30 juvenile records relating to the case that are maintained
31 by the Department of Justice, law enforcement agencies,
32 the juvenile court, or other agencies and public officials
33 unless ordered by a court under Section 781 of the
34 Welfare and Institutions Code.

35 (e) (1) On or after January 1, 1998, upon
36 incarceration, placement, or commitment, or prior to
37 release on probation, any person who is required to
38 register under this section shall preregister. The
39 preregistering official shall be the admitting officer at the
40 place of incarceration, placement, or commitment, or the

1 probation officer if the person is to be released on
2 probation. The preregistration shall consist of both of the
3 following:

4 (A) A preregistration statement in writing, signed by
5 the person, giving information that shall be required by
6 the Department of Justice.

7 (B) The fingerprints and photograph of the person.

8 (C) Any person who is preregistered pursuant to this
9 subdivision is required to be preregistered only once.

10 (2) A person described in paragraph (2) of subdivision
11 (a) shall register, or reregister if the person has previously
12 registered, upon release from incarceration, placement,
13 or commitment, pursuant to paragraph (1) of subdivision
14 (a). The registration shall consist of all of the following:

15 (A) A statement in writing signed by the person,
16 giving information as shall be required by the
17 Department of Justice and giving the name and address
18 of the person's employer, and the address of the person's
19 place of employment if that is different from the
20 employer's main address.

21 (B) The fingerprints and photograph of the person.

22 (C) The license plate number of any vehicle owned
23 by, regularly driven by, or registered in the name of the
24 person.

25 (D) Notice to the person that, in addition to the
26 requirements of paragraph (4), he or she may have a duty
27 to register in any other state where he or she may
28 relocate.

29 (E) Copies of adequate proof of residence, which shall
30 be limited to a California driver's license, California
31 identification card, recent rent or utility receipt, printed
32 personalized checks or other recent banking documents
33 showing that person's name and address, or any other
34 information that the registering official believes is
35 reliable. If the person has no residence and no reasonable
36 expectation of obtaining a residence in the foreseeable
37 future, the person shall so advise the registering official
38 and shall sign a statement provided by the registering
39 official stating that fact. Upon presentation of proof of
40 residence to the registering official or a signed statement

1 that the person has no residence, the person shall be
2 allowed to register. If the person claims that he or she has
3 a residence but does not have any proof of residence, he
4 or she shall be allowed to register but shall furnish proof
5 of residence within 30 days of the day he or she is allowed
6 to register.

7 (3) Within three days thereafter, the preregistering
8 official or the registering law enforcement agency or
9 agencies shall forward the statement, fingerprints,
10 photograph, and vehicle license plate number, if any, to
11 the Department of Justice.

12 (f) (1) If any person who is required to register
13 pursuant to this section changes his or her residence
14 address or location, whether within the jurisdiction in
15 which he or she is currently registered or to a new
16 jurisdiction inside or outside the state, the person shall
17 inform, in writing within five working days, the law
18 enforcement agency or agencies with which he or she last
19 registered of the new address or location. The law
20 enforcement agency or agencies shall, within three days
21 after receipt of this information, forward a copy of the
22 change of address or location information to the
23 Department of Justice. The Department of Justice shall
24 forward appropriate registration data to the law
25 enforcement agency or agencies having local jurisdiction
26 of the new place of residence or location.

27 (2) If the person's new address is in a Department of
28 the Youth Authority facility or a state prison or state
29 mental institution, an official of the place of incarceration,
30 placement, or commitment shall, within 90 days of
31 receipt of the person, forward the registrant's change of
32 address information to the Department of Justice. The
33 agency need not provide a physical address for the
34 registrant but shall indicate that he or she is serving a
35 period of incarceration or commitment in a facility under
36 the agency's jurisdiction. This paragraph shall apply to
37 persons received in a Department of the Youth Authority
38 facility or a state prison or state mental institution on or
39 after January 1, 1999. The Department of Justice shall

1 forward the change of address information to the agency
2 with which the person last registered.

3 (3) If any person who is required to register pursuant
4 to this section changes his or her name, the person shall
5 inform, in person, the law enforcement agency or
6 agencies with which he or she is currently registered
7 within five working days. The law enforcement agency or
8 agencies shall forward a copy of this information to the
9 Department of Justice within three days of its receipt.

10 (g) (1) Any person who is required to register under
11 this section based on a misdemeanor conviction or
12 juvenile adjudication who willfully violates any
13 requirement of this section is guilty of a misdemeanor
14 punishable by imprisonment in a county jail not
15 exceeding one year.

16 (2) Except as provided in paragraphs (5) and (7), any
17 person who is required to register under this section
18 based on a felony conviction or juvenile adjudication who
19 willfully violates any requirement of this section or who
20 has a prior conviction or juvenile adjudication for the
21 offense of failing to register under this section and who
22 subsequently and willfully violates any requirement of
23 this section is guilty of a felony and shall be punished by
24 imprisonment in the state prison for 16 months, or two or
25 three years.

26 If probation is granted or if the imposition or execution
27 of sentence is suspended, it shall be a condition of the
28 probation or suspension that the person serve at least 90
29 days in a county jail. The penalty described in this
30 paragraph shall apply whether or not the person has been
31 released on parole or has been discharged from parole.

32 (3) Any person determined to be a mentally
33 disordered sex offender or who has been found guilty in
34 the guilt phase of trial for an offense for which registration
35 is required under this section, but who has been found not
36 guilty by reason of insanity in the sanity phase of the trial,
37 or who has had a petition sustained in a juvenile
38 adjudication for an offense for which registration is
39 required under this section pursuant to subdivision (d),
40 but who has been found not guilty by reason of insanity,

1 who willfully violates any requirement of this section is
2 guilty of a misdemeanor and shall be punished by
3 imprisonment in a county jail not exceeding one year. For
4 any second or subsequent willful violation of any
5 requirement of this section, the person is guilty of a felony
6 and shall be punished by imprisonment in the state prison
7 for 16 months, or two or three years.

8 (4) If, after discharge from parole, the person is
9 convicted of a felony or suffers a juvenile adjudication as
10 specified in this subdivision, he or she shall be required to
11 complete parole of at least one year, in addition to any
12 other punishment imposed under this subdivision. A
13 person convicted of a felony as specified in this
14 subdivision may be granted probation only in the unusual
15 case where the interests of justice would best be served.
16 When probation is granted under this paragraph, the
17 court shall specify on the record and shall enter into the
18 minutes the circumstances indicating that the interests of
19 justice would best be served by the disposition.

20 (5) Any person who has ever been adjudicated a
21 sexually violent predator, as defined in Section 6600 of the
22 Welfare and Institutions Code, and who fails to verify his
23 or her registration every 90 days as required pursuant to
24 subparagraph (E) of paragraph (1) of subdivision (a),
25 shall be punished by imprisonment in the state prison, or
26 in a county jail not exceeding one year.

27 (6) Except as otherwise provided in paragraph (5),
28 and in addition to any other penalty imposed under this
29 subdivision, any person who is required pursuant to
30 subparagraph (C) of paragraph (1) of subdivision (a) to
31 update his or her registration every 90 days and willfully
32 fails to update his or her registration is guilty of a
33 misdemeanor and shall be punished by imprisonment in
34 a county jail not exceeding six months. Any subsequent
35 violation of this requirement that persons described in
36 subparagraph (C) of paragraph (1) of subdivision (a)
37 shall update their registration every 90 days is also a
38 misdemeanor and shall be punished by imprisonment in
39 a county jail not exceeding six months.



1 (7) Any person who fails to provide proof of residence
2 as required by subparagraph (E) of paragraph (2) of
3 subdivision (e), regardless of the offense upon which the
4 duty to register is based, is guilty of a misdemeanor
5 punishable by imprisonment in a county jail not
6 exceeding six months.

7 (8) Any person who is required to register under this
8 section who willfully violates any requirement of this
9 section is guilty of a continuing offense.

10 (h) Whenever any person is released on parole or
11 probation and is required to register under this section
12 but fails to do so within the time prescribed, the parole
13 authority, the Youthful Offender Parole Board, or the
14 court, as the case may be, shall order the parole or
15 probation of the person revoked. For purposes of this
16 subdivision, “parole authority” has the same meaning as
17 described in Section 3000.

18 (i) Except as provided in subdivisions (m) and (n) and
19 Section 290.4, the statements, photographs, and
20 fingerprints required by this section shall not be open to
21 inspection by the public or by any person other than a
22 regularly employed peace officer or other law
23 enforcement officer.

24 (j) In any case in which a person who would be
25 required to register pursuant to this section for a felony
26 conviction is to be temporarily sent outside the institution
27 where he or she is confined on any assignment within a
28 city or county including firefighting, disaster control, or
29 of whatever nature the assignment may be, the local law
30 enforcement agency having jurisdiction over the place or
31 places where the assignment shall occur shall be notified
32 within a reasonable time prior to removal from the
33 institution. This subdivision shall not apply to any person
34 who is temporarily released under guard from the
35 institution where he or she is confined.

36 (k) As used in this section, “mentally disordered sex
37 offender” includes any person who has been determined
38 to be a sexual psychopath or a mentally disordered sex
39 offender under any provision which, on or before January

1 1, 1976, was contained in Division 6 (commencing with
2 Section 6000) of the Welfare and Institutions Code.

3 (l) (1) Every person who, prior to January 1, 1997, is
4 required to register under this section, shall be notified
5 whenever he or she next reregisters of the reduction of
6 the registration period from 14 to five working days. This
7 notice shall be provided in writing by the registering
8 agency or agencies. Failure to receive this notification
9 shall be a defense against the penalties prescribed by
10 subdivision (g) if the person did register within 14 days.

11 (2) Every person who, as a sexually violent predator,
12 as defined in Section 6600 of the Welfare and Institutions
13 Code, is required to verify his or her registration every 90
14 days, shall be notified wherever he or she next registers
15 of his or her increased registration obligations. This notice
16 shall be provided in writing by the registering agency or
17 agencies. Failure to receive this notice shall be a defense
18 against the penalties prescribed by paragraph (5) of
19 subdivision (g).

20 (m) (1) When a peace officer reasonably suspects,
21 based on information that has come to his or her attention
22 through information provided by any peace officer or
23 member of the public, that a child or other person may
24 be at risk from a sex offender convicted of a crime listed
25 in paragraph (1) of subdivision (a) of Section 290.4, a law
26 enforcement agency may, notwithstanding any other
27 provision of law, provide any of the information specified
28 in paragraph (4) of this subdivision about that registered
29 sex offender that the agency deems relevant and
30 necessary to protect the public, to the following persons,
31 agencies, or organizations the offender is likely to
32 encounter, including, but not limited to, the following:

33 (A) Public and private educational institutions, day
34 care establishments, and establishments and
35 organizations that primarily serve individuals likely to be
36 victimized by the offender.

37 (B) Other community members at risk.

38 (2) The law enforcement agency may authorize
39 persons and entities who receive the information

1 pursuant to paragraph (1) to disclose information to
2 additional persons only if the agency does the following:

3 (A) Determines that all conditions set forth in
4 paragraph (1) have been satisfied regarding disclosure to
5 the additional persons.

6 (B) Identifies the appropriate scope of further
7 disclosure.

8 (3) Persons notified pursuant to paragraph (1) may
9 disclose the information provided by the law
10 enforcement agency in the manner and to the extent
11 authorized by the law enforcement agency.

12 (4) The information that may be disclosed pursuant to
13 this section includes the following:

14 (A) The offender's full name.

15 (B) The offender's known aliases.

16 (C) The offender's gender.

17 (D) The offender's race.

18 (E) The offender's physical description.

19 (F) The offender's photograph.

20 (G) The offender's date of birth.

21 (H) Crimes resulting in registration under this section.

22 (I) The offender's address, which must be verified
23 prior to publication.

24 (J) Description and license plate number of offender's
25 vehicles or vehicles the offender is known to drive.

26 (K) Type of victim targeted by the offender.

27 (L) Relevant parole or probation conditions, such as
28 one prohibiting contact with children.

29 (M) Dates of crimes resulting in classification under
30 this section.

31 (N) Date of release from confinement.

32 However, information disclosed pursuant to this
33 subdivision shall not include information that would
34 identify the victim.

35 (5) If a law enforcement agency discloses information
36 pursuant to this subdivision, it shall include, with the
37 disclosure, a statement that the purpose of the release of
38 the information is to allow members of the public to
39 protect themselves and their children from sex offenders.

1 (6) For purposes of this section, “likely to encounter”
2 means both of the following:

3 (A) That the agencies, organizations, or other
4 community members are in a location or in close
5 proximity to a location where the offender lives or is
6 employed, or that the offender visits or is likely to visit on
7 a regular basis.

8 (B) The types of interaction that ordinarily occur at
9 that location and other circumstances indicate that
10 contact with the offender is reasonably probable.

11 (7) For purposes of this section, “reasonably suspects”
12 means that it is objectively reasonable for a peace officer
13 to entertain a suspicion, based upon facts that could cause
14 a reasonable person in a like position, drawing when
15 appropriate on his or her training and experience, to
16 suspect that a child or other person is at risk.

17 (8) For purposes of this section, “at risk” means a
18 person is or may be exposed to a risk of becoming a victim
19 of a sex offense committed by the offender.

20 (9) A law enforcement agency may continue to
21 disclose information on an offender under this
22 subdivision for as long as the offender is included in
23 Section 290.4.

24 (n) In addition to the procedures set forth elsewhere
25 in this section, a designated law enforcement entity may
26 advise the public of the presence of high-risk sex
27 offenders in its community pursuant to this subdivision.

28 (1) For purposes of this subdivision:

29 (A) A high-risk sex offender is a person who has been
30 convicted of an offense specified in paragraph (1) of
31 subdivision (a) of Section 290.4, and also meets one of the
32 following criteria:

33 (i) Has been convicted of three or more violent sex
34 offenses, at least two of which were brought and tried
35 separately.

36 (ii) Has been convicted of two violent sex offenses and
37 one or more violent nonsex offenses, at least two of which
38 were brought and tried separately.

1 (iii) Has been convicted of one violent sex offense and
2 two or more violent nonsex offenses, at least two of which
3 were brought and tried separately.

4 (iv) Has been convicted of either two violent sex
5 offenses or one violent sex offense and one violent nonsex
6 offense, at least two of which were brought and tried
7 separately, and has been arrested on separate occasions
8 for three or more violent sex offenses, violent nonsex
9 offenses, or associated offenses.

10 (v) Has been adjudicated a sexually violent predator
11 pursuant to Article 4 (commencing with Section 6600) of
12 Chapter 2 of Part 2 of Division 6 of the Welfare and
13 Institutions Code.

14 (B) A violent sex offense means any offense defined in
15 Section 220, except attempt to commit mayhem, or
16 Section 261, 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or
17 infliction of great bodily injury during the commission of
18 a sex offense, as provided in Section 12022.8.

19 (C) A violent nonsex offense means any offense
20 defined in Section 187, subdivision (a) of Section 192, or
21 Section 203, 206, 207, or 236, provided that the offense is
22 a felony, subdivision (a) of Section 273a, Section 273d or
23 451, or attempted murder, as defined in Sections 187 and
24 664.

25 (D) An associated offense means any offense defined
26 in Section 243.4, provided that the offense is a felony,
27 Section 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, or 314,
28 Section 459, provided the offense is of the first degree,
29 Section 597 or 646.9, subdivision (d), (h), or (i) of Section
30 647, Section 653m, or infliction of great bodily injury
31 during the commission of a felony, as defined in Section
32 12022.7.

33 (E) For purposes of subparagraphs (B) to (D),
34 inclusive, an arrest or conviction for the statutory
35 predecessor of any of the enumerated offenses, or an
36 arrest or conviction in any other jurisdiction for any
37 offense that, if committed or attempted in this state,
38 would have been punishable as one or more of the
39 offenses described in those subparagraphs, is to be

1 considered in determining whether an offender is a
2 high-risk sex offender.

3 (F) For purposes of subparagraphs (B) to (D),
4 inclusive, an arrest as a juvenile or an adjudication as a
5 ward of the juvenile court within the meaning of Section
6 602 of the Welfare and Institutions Code for any of the
7 offenses described in those subparagraphs is to be
8 considered in determining whether an offender is a
9 high-risk sex offender.

10 (G) Notwithstanding subparagraphs (A) to (D),
11 inclusive, an offender shall not be considered to be a
12 high-risk sex offender if either of the following apply:

13 (i) The offender's most recent conviction or arrest for
14 an offense described in subparagraphs (B) to (D),
15 inclusive, occurred more than five years prior to the
16 high-risk assessment by the Department of Justice,
17 excluding periods of confinement.

18 (ii) The offender notifies the Department of Justice,
19 on a form approved by the department and available at
20 any sheriff's office, that he or she has not been convicted
21 in the preceding 15 years, excluding periods of
22 confinement, of an offense for which registration is
23 required under paragraph (2) of subdivision (a), and the
24 department is able, upon exercise of reasonable diligence,
25 to verify the information provided in paragraph (2).

26 (H) "Confinement" means confinement in a jail,
27 prison, school, road camp, or other penal institution,
28 confinement in a state hospital to which the offender was
29 committed as a mentally disordered sex offender under
30 Article 1 (commencing with Section 6300) of Chapter 2
31 of Part 2 of Division 6 of the Welfare and Institutions
32 Code, or confinement in a facility designated by the
33 Director of Mental Health to which the offender was
34 committed as a sexually violent predator under Article 4
35 (commencing with Section 6600) of Chapter 2 of Part 2
36 of Division 6 of the Welfare and Institutions Code.

37 (I) "Designated law enforcement entity" means any
38 of the following: municipal police department; sheriff's
39 department; district attorney's office; county probation
40 department; Department of Justice; Department of



1 Corrections; Department of the Youth Authority;
2 Department of the California Highway Patrol; or the
3 police department of any campus of the University of
4 California, California State University, or community
5 college.

6 (2) The Department of Justice shall continually search
7 the records provided to it pursuant to subdivision (b) and
8 identify, on the basis of those records, high-risk sex
9 offenders. Four times each year, the department shall
10 provide to each chief of police and sheriff in the state, and
11 to any other designated law enforcement entity upon
12 request, the following information regarding each
13 identified high-risk sex offender: full name; known aliases;
14 gender; race; physical description; photograph; date of
15 birth; and crimes resulting in classification under this
16 section.

17 (3) The Department of Justice and any designated law
18 enforcement entity to which notice has been given
19 pursuant to paragraph (2) may cause to be made public,
20 by whatever means the agency deems necessary to
21 ensure the public safety, based upon information
22 available to the agency concerning a specific person,
23 including, but not limited to, the information described
24 in paragraph (2); the offender's address, which shall be
25 verified prior to publication; description and license plate
26 number of the offender's vehicles or vehicles the offender
27 is known to drive; type of victim targeted by the offender;
28 relevant parole or probation conditions, such as one
29 prohibiting contact with children; dates of crimes
30 resulting in classification under this section; and date of
31 release from confinement; but excluding information
32 that would identify the victim.

33 (4) Notwithstanding any other provision of law, any
34 person described in paragraph (2) of subdivision (p) who
35 receives information from a designated law enforcement
36 entity pursuant to paragraph (3) of subdivision (n) may
37 disclose that information in the manner and to the extent
38 authorized by the law enforcement entity.

39 (o) Agencies disseminating information to the public
40 pursuant to Section 290.4 shall maintain records of those

1 persons requesting to view the CD-ROM or other
2 electronic media for a minimum of five years. Agencies
3 disseminating information to the public pursuant to
4 subdivision (n) shall maintain records of the means and
5 dates of dissemination for a minimum of five years.

6 (p) (1) Any law enforcement agency and employees
7 of any law enforcement agency shall be immune from
8 liability for good faith conduct under this section. For the
9 purposes of this section, “law enforcement agency”
10 means the Attorney General of California, every district
11 attorney, and every state or local agency expressly
12 authorized by statute to investigate or prosecute law
13 violators.

14 (2) Any public or private educational institution, day
15 care facility, or any child care custodian described in
16 Section 11165.7, or any employee of a public or private
17 educational institution or day care facility which in good
18 faith disseminates information as authorized pursuant to
19 paragraph (3) of subdivision (m) or paragraph (4) of
20 subdivision (n) that is provided by a law enforcement
21 agency or an employee of a law enforcement agency shall
22 be immune from civil liability.

23 (q) (1) Any person who uses information disclosed
24 pursuant to this section to commit a felony shall be
25 punished, in addition and consecutive to any other
26 punishment, by a five-year term of imprisonment in the
27 state prison.

28 (2) Any person who uses information disclosed
29 pursuant to this section to commit a misdemeanor shall be
30 subject to, in addition to any other penalty or fine
31 imposed, a fine of not less than five hundred dollars
32 (\$500) and not more than one thousand dollars (\$1,000).

33 (r) The registration and public notification provisions
34 of this section are applicable to every person described in
35 this section, without regard to when his or her crimes
36 were committed or his or her duty to register pursuant to
37 this section arose, and to every offense described in this
38 section, regardless of when it was committed.

39 SEC. 8. Section 347 of the Penal Code is amended to
40 read:

1 347. (a) (1) Every person who willfully mingles any
2 poison or harmful substance with any food, drink,
3 medicine, or pharmaceutical product or who willfully
4 places any poison or harmful substance in any spring,
5 well, reservoir, or public water supply, where the person
6 knows or should have known that the same would be
7 taken by any human being to his or her injury, is guilty of
8 a felony punishable by imprisonment in the state prison
9 for two, four, or five years.

10 (2) Any violation of paragraph (1) involving the use of
11 a poison or harmful substance that may cause death if
12 ingested or that causes the infliction of great bodily injury
13 on any person shall be punished by an additional term of
14 three years.

15 (b) Any person who maliciously informs any other
16 person that a poison or other harmful substance has been
17 or will be placed in any food, drink, medicine,
18 pharmaceutical product, or public water supply, knowing
19 that such report is false, is guilty of a crime punishable by
20 imprisonment in the state prison, or by imprisonment in
21 the county jail not to exceed one year.

22 (c) The court may impose the maximum fine for each
23 item tampered with in violation of subdivision (a).

24 SEC. 9. Section 600 of the Penal Code is amended to
25 read:

26 600. (a) Any person who willfully and maliciously
27 and with no legal justification strikes, beats, kicks, cuts,
28 stabs, shoots with a firearm, administers any poison or
29 other harmful or stupefying substance to, or throws, hurls,
30 or projects at, or places any rock, object, or other
31 substance which is used in such a manner as to be capable
32 of producing injury and likely to produce injury, on or in
33 the path of, any horse being used by, or any dog under the
34 supervision of, any peace officer in the discharge or
35 attempted discharge of his or her duties, is guilty of a
36 public offense. If the injury inflicted is a serious injury, as
37 defined in subdivision (c), the person shall be punished
38 by imprisonment in the state prison for 16 months, two or
39 three years, or in a county jail for not exceeding one year,
40 or by a fine not exceeding two thousand dollars (\$2,000),

1 or by both a fine and imprisonment. If the injury inflicted
2 is not a serious injury, the person shall be punished by
3 imprisonment in the county jail for not exceeding one
4 year, or by a fine not exceeding one thousand dollars
5 (\$1,000), or by both a fine and imprisonment.

6 (b) Any person who willfully and maliciously and with
7 no legal justification interferes with or obstructs any horse
8 or dog being used by any peace officer in the discharge
9 or attempted discharge of his or her duties by frightening,
10 teasing, agitating, harassing, or hindering the horse or dog
11 shall be punished by imprisonment in a county jail for not
12 exceeding one year, or by a fine not exceeding one
13 thousand dollars (\$1,000), or by both a fine and
14 imprisonment.

15 (c) Any person who, in violation of this section, and
16 with intent to inflict such injury or death, personally
17 causes the death, destruction, or serious physical injury
18 including bone fracture, loss or impairment of function of
19 any bodily member, wounds requiring extensive
20 suturing, or serious crippling, of any horse or dog, shall,
21 upon conviction of a felony under this section, in addition
22 and consecutive to the punishment prescribed for the
23 felony, be punished by an additional term of
24 imprisonment in the state prison for one year.

25 (d) Any person who, in violation of this section, and
26 with the intent to inflict such injury, personally causes
27 great bodily injury, as defined in Section 12022.7, to any
28 person not an accomplice, shall, upon conviction of a
29 felony under this section, in addition and consecutive to
30 the punishment prescribed for the felony, be punished by
31 an additional term of imprisonment in the state prison for
32 two years unless the conduct described in this subdivision
33 is an element of any other offense of which the person is
34 convicted or receives an enhancement under Section
35 12022.7.

36 (e) In any case in which a defendant is convicted of a
37 violation of this section, the defendant shall be ordered to
38 make restitution to the agency owning the animal and
39 employing the peace officer for any veterinary bills,
40 replacement costs of the animal if it is disabled or killed,

1 and the salary of the peace officer for the period of time
2 his or her services are lost to the agency.

3 SEC. 10. Section 667.71 of the Penal Code is amended
4 to read:

5 667.71. (a) For the purpose of this section, a habitual
6 sexual offender is a person who has been previously
7 convicted of one or more of the offenses listed in
8 subdivision (c) and who is convicted in the present
9 proceeding of one of those offenses.

10 (b) A habitual sexual offender is punishable by
11 imprisonment in the state prison for 25 years to life.
12 Article 2.5 (commencing with Section 2930) of Chapter
13 7 of Title 1 of Part 3 shall apply to reduce any minimum
14 term of 25 years in the state prison imposed pursuant to
15 this section. However, in no case shall the minimum term
16 of 25 years be reduced by more than 15 percent for credits
17 granted pursuant to Section 2933, 4019, or any other law
18 providing for conduct credit reduction. In no case shall
19 any person who is punished under this section be released
20 on parole prior to serving at least 85 percent of the
21 minimum term of 25 years in the state prison.

22 (c) This section shall apply to any of the following
23 offenses:

24 (1) A violation of paragraph (2) of subdivision (a) of
25 Section 261.

26 (2) A violation of paragraph (1) of subdivision (a) of
27 Section 262.

28 (3) A violation of Section 264.1.

29 (4) A violation of subdivision (a) or (b) of Section 288.

30 (5) A violation of subdivision (a) of Section 289.

31 (6) A violation of Section 288.5.

32 (7) A violation of subdivision (c) of Section 286 by
33 force, violence, duress, menace, or fear of immediate and
34 unlawful bodily injury on the victim or another person.

35 (8) A violation of subdivision (d) of Section 286.

36 (9) A violation of subdivision (c) or (d) of Section 288a
37 by force, violence, duress, menace, or fear of immediate
38 and unlawful bodily injury on the victim or another
39 person.

40 (10) A violation of subdivision (b) of Section 207.

1 (11) A violation of former subdivision (d) of Section
2 208 (kidnapping to commit specified sex offenses).

3 (12) Kidnapping in violation of Section 209 with the
4 intent to commit rape, spousal rape, oral copulation, or
5 sodomy or sexual penetration in violation of Section 289.

6 (13) A violation of Section 269.

7 (14) An offense committed in another jurisdiction that
8 has all the elements of an offense specified in paragraphs
9 (1) to (13), inclusive, of this subdivision.

10 (d) This section shall apply only if the defendant's
11 status as a habitual sexual offender is alleged in the
12 information, and either admitted by the defendant in
13 open court, or found to be true by the jury trying the issue
14 of guilt or by the court where guilt is established by a plea
15 of guilty or nolo contendere or by trial by court sitting
16 without a jury.

17 SEC. 11. Section 832.6 of the Penal Code is amended
18 to read:

19 832.6. (a) Every person deputized or appointed, as
20 described in subdivision (a) of Section 830.6, shall have
21 the powers of a peace officer only when the person is any
22 of the following:

23 (1) A level I reserve officer deputized or appointed
24 pursuant to paragraph (1) or (2) of subdivision (a) or
25 subdivision (b) of Section 830.6 and assigned to the
26 prevention and detection of crime and the general
27 enforcement of the laws of this state, whether or not
28 working alone, and the person has completed the basic
29 training course for deputy sheriffs and police officers
30 prescribed by the Commission on Peace Officer
31 Standards and Training. For level I reserve officers
32 appointed prior to January 1, 1997, the basic training
33 requirement shall be the course that was prescribed at
34 the time of their appointment. Reserve officers
35 appointed pursuant to this paragraph shall satisfy the
36 continuing professional training requirement prescribed
37 by the commission.

38 (2) A level II reserve officer assigned to the
39 prevention and detection of crime and the general
40 enforcement of the laws of this state while under the

1 immediate supervision of a peace officer who has
2 completed the basic training course for deputy sheriffs
3 and police officers prescribed by the Commission on
4 Peace Officer Standards and Training, and the level II
5 reserve officer has completed the course required by
6 Section 832 and any other training prescribed by the
7 commission.

8 Level II reserve officers appointed pursuant to this
9 paragraph may be assigned, without immediate
10 supervision, to those limited duties that are authorized for
11 level III reserve officers pursuant to paragraph (3).
12 Reserve officers appointed pursuant to this paragraph
13 shall satisfy the continuing professional training
14 requirement prescribed by the commission.

15 (3) Level III reserve officers may be deployed and are
16 authorized only to carry out limited support duties not
17 requiring general law enforcement powers in their
18 routine performance. Those limited duties shall include
19 traffic control, security at parades and sporting events,
20 report taking, evidence transportation, parking
21 enforcement, and other duties that are not likely to result
22 in physical arrests. Level III reserve officers while
23 assigned these duties shall be supervised in the accessible
24 vicinity by a level I reserve officer or a full-time, regular
25 peace officer employed by a law enforcement agency
26 authorized to have reserve officers. Level III reserve
27 officers may transport prisoners without immediate
28 supervision. Those persons shall have completed the
29 training required under Section 832 and any other
30 training prescribed by the commission for those persons.

31 (4) A person assigned to the prevention and detection
32 of a particular crime or crimes or to the detection or
33 apprehension of a particular individual or individuals
34 while working under the supervision of a California peace
35 officer in a county adjacent to the state border who
36 possesses a basic certificate issued by the Commission on
37 Peace Officer Standards and Training, and the person is
38 a law enforcement officer who is regularly employed by
39 a local or state law enforcement agency in an adjoining

1 state and has completed the basic training required for
2 peace officers in his or her state.

3 (5) For purposes of this section, a reserve officer who
4 has previously satisfied ~~any training requirement~~ *the*
5 *training requirements* pursuant to this section, and has
6 ~~been serving~~ *served* as a level I or II reserve officer ~~in one~~
7 ~~law enforcement agency~~ *within the three-year period*
8 *prior to the date of a new appointment* shall be deemed
9 to remain qualified ~~for appointment regarding the~~
10 ~~requirements of as to the Commission on Peace Officer~~
11 ~~Standards and Training even though requirements if~~ that
12 reserve officer accepts a new appointment at the same or
13 ~~lower level in~~ *with* another law enforcement agency. If
14 the reserve officer has more than a three-year break in
15 service, he or she shall satisfy current training
16 requirements.

17 This training shall fully satisfy any other training
18 requirements required by law, including those specified
19 in Section 832.

20 In no case shall a peace officer of an adjoining state
21 provide services within a California jurisdiction during
22 any period in which the regular law enforcement agency
23 of the jurisdiction is involved in a labor dispute.

24 (b) Notwithstanding subdivision (a), a person who is
25 issued a level I reserve officer certificate before January
26 1, 1981, shall have the full powers and duties of a peace
27 officer as provided by Section 830.1 if so designated by
28 local ordinance or, if the local agency is not authorized to
29 act by ordinance, by resolution, either individually or by
30 class, if the appointing authority determines the person
31 is qualified to perform general law enforcement duties by
32 reason of the person's training and experience. Persons
33 who were qualified to be issued the level I reserve officer
34 certificate before January 1, 1981, and who state in writing
35 under penalty of perjury that they applied for but were
36 not issued the certificate before January 1, 1981, may be
37 issued the certificate before July 1, 1984. For purposes of
38 this section, certificates so issued shall be deemed to have
39 the full force and effect of any level I reserve officer
40 certificate issued prior to January 1, 1981.

(c) In carrying out this section, the commission:

(1) May use proficiency testing to satisfy reserve training standards.

(2) Shall provide for convenient training to remote areas in the state.

(3) Shall establish a professional certificate for reserve officers as defined in paragraph (1) of subdivision (a) and may establish a professional certificate for reserve officers as defined in paragraphs (2) and (3) of subdivision (a).

(4) Shall facilitate the voluntary transition of reserve officers to regular officers with no unnecessary redundancy between the training required for level I and level II reserve officers.

(5) Shall develop a supplemental course for existing level I reserve officers desiring to satisfy the basic training course for deputy sheriffs and police officers.

(d) In carrying out paragraphs (1) and (3) of subdivision (c), the commission may establish and levy appropriate fees, provided the fees do not exceed the cost for administering the respective services. These fees shall be deposited in the Peace Officers' Training Fund established by Section 13520.

(e) The commission shall include an amount in its annual budget request to carry out this section.

SEC. 12. *Section 976.5 of the Penal Code is amended to read:*

976.5. (a) Notwithstanding any other provision of law, when an accusatory pleading is filed in Sierra County and the defendant is in the custody of Nevada County, he or she may be arraigned before a court in Nevada County.

(b) This section shall not interfere with the right of a defendant to demur to an accusatory pleading, as specified in Chapter 3 (commencing with Section 1002) of Title 6.

(c) This section shall remain in effect only until January 1, ~~2001~~ 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, ~~2001~~ 2005, deletes or extends that date.

SEC. 13. *Section 999I of the Penal Code is amended to read:*

1 999l. (a) An individual shall be the subject of a repeat
2 sexual offender prosecution effort who is under arrest for
3 the commission or attempted commission of one or more
4 of the following offenses: assault with intent to commit
5 rape, sodomy, oral copulation or any violation of Section
6 264.1, Section 288, or Section 289; rape, in violation of
7 Section 261; sexual battery, in violation of Section 243.4;
8 sodomy, in violation of Section 286; lewd acts on a child
9 under 14, in violation of Section 288; oral copulation, in
10 violation of Section 288a; sexual penetration, in violation
11 of Section 289; and (1) who is being prosecuted for
12 offenses involving two or more separate victims, or (2)
13 who is being prosecuted for the commission or attempted
14 commission of three or more separate offenses not arising
15 out of the same transaction involving one or more of the
16 above-listed offenses, or (3) who has suffered at least one
17 conviction during the preceding 10 years for any of the
18 above-listed offenses. For purposes of this chapter, the
19 10-year periods specified in this section shall be exclusive
20 of any time which the arrested person has served in state
21 prison or in a state hospital pursuant to a commitment as
22 a mentally disordered sex offender.

23 (b) In applying the repeat sexual offender selection
24 criteria set forth above: (1) a district attorney may elect
25 to limit repeat sexual offender prosecution efforts to
26 persons arrested for any one or more of the offenses listed
27 in subdivision (a) if crime statistics demonstrate that the
28 incidence of such one or more offenses presents a
29 particularly serious problem in the county; (2) a district
30 attorney shall not reject cases for filing exclusively on the
31 basis that there is a family or personal relationship
32 between the victim and the alleged offender.

33 (c) In exercising the prosecutorial discretion granted
34 by Section 999n, the district attorney shall consider the
35 following: (1) the character, the background, and prior
36 criminal background of the defendant, and (2) the
37 number and seriousness of the offenses currently charged
38 against the defendant.

39 ~~SEC. 13.~~

1 *SEC. 14.* Section 1170.11 of the Penal Code is
2 amended to read:

3 1170.11. As used in Section 1170.1, the term “specific
4 enhancement” includes, but is not limited to, the
5 enhancements provided in Sections 186.10, 186.11, 186.22,
6 186.26, 186.33, 273.4, 289.5, 290, 290.4, 347, and 368,
7 subdivisions (a), (b), and (c) of Section 422.75,
8 paragraphs (2), (3), (4), and (5) of subdivision (a) of
9 Section 451.1, paragraphs (2), (3), and (4) of subdivision
10 (a) of Section 452.1, subdivision (g) of Section 550,
11 Sections 593a, 600, 667.8, 667.85, 667.9, 667.10, 667.15,
12 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3, 12022.4,
13 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75,
14 12022.8, 12022.85, 12022.9, 12022.95, 12072, and 12280 of
15 this code, and in Sections 1522.01 and 11353.1, subdivision
16 (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4,
17 11379.7, 11379.8, 11379.9, 11380.1, 11380.5, 25189.5, and
18 25189.7 of the Health and Safety Code, and in Sections
19 20001 and 23558 of the Vehicle Code, and in Section 10980
20 of the Welfare and Institutions Code.

21 ~~SEC. 14.~~

22 *SEC. 15.* Section 1170.17 of the Penal Code is
23 amended to read:

24 1170.17. (a) When a person is prosecuted for a
25 criminal offense committed while he or she was under the
26 age of 18 years and the prosecution is lawfully initiated in
27 a court of criminal jurisdiction without a prior finding that
28 the person is not a fit and proper subject to be dealt with
29 under the juvenile court law, upon subsequent conviction
30 for any criminal offense, the person shall be subject to the
31 same sentence as an adult convicted of the identical
32 offense, in accordance with the provisions set forth in
33 subdivision (a) of Section 1170.19, except under the
34 circumstances described in subdivision (b) or (c).

35 (b) Where the conviction is for the type of offense
36 which, in combination with the person’s age at the time
37 the offense was committed, makes the person eligible for
38 transfer to a court of criminal jurisdiction, pursuant to a
39 rebuttable presumption that the person is not a fit and
40 proper subject to be dealt with under the juvenile court

1 law, and the prosecution for the offense could not lawfully
2 be initiated in a court of criminal jurisdiction, then either
3 of the following shall apply:

4 (1) The person shall be subject to the same sentence
5 as an adult convicted of the identical offense in
6 accordance with the provisions set forth in subdivision
7 (a) of Section 1170.19, unless the person prevails upon a
8 motion brought pursuant to paragraph (2).

9 (2) Upon a motion brought by the person, the court
10 shall order the probation department to prepare a
11 written social study and recommendation concerning the
12 person's fitness to be dealt with under the juvenile court
13 law and the court shall either conduct a fitness hearing or
14 suspend proceedings and remand the matter to the
15 juvenile court to prepare a social study and make a
16 determination of fitness. The person shall receive a
17 disposition under the juvenile court law only if the person
18 demonstrates, by a preponderance of the evidence, that
19 he or she is a fit and proper subject to be dealt with under
20 the juvenile court law, based upon each of the following
21 five criteria:

22 (A) The degree of criminal sophistication exhibited by
23 the person.

24 (B) Whether the person can be rehabilitated prior to
25 the expiration of the juvenile court's jurisdiction.

26 (C) The person's previous delinquent history.

27 (D) Success of previous attempts by the juvenile court
28 to rehabilitate the person.

29 (E) The circumstances and gravity of the offense for
30 which the person has been convicted.

31 If the court conducting the fitness hearing finds that
32 the person is not a fit and proper subject for juvenile court
33 jurisdiction, then the person shall be sentenced by the
34 court where he or she was convicted, in accordance with
35 the provisions of paragraph (1). If the court conducting
36 the hearing on fitness finds that the person is a fit and
37 proper subject for juvenile court jurisdiction, then the
38 person shall be subject to a disposition in accordance with
39 the provisions of subdivision (b) of Section 1170.19.



(c) Where the conviction is for the type of offense which, in combination with the person's age at the time the offense was committed, makes the person eligible for transfer to a court of criminal jurisdiction, pursuant to a rebuttable presumption that the person is a fit and proper subject to be dealt with under the juvenile court law, then the person shall be sentenced as follows:

(1) The person shall be subject to a disposition under the juvenile court law, in accordance with the provisions of subdivision (b) of Section 1170.19, unless the district attorney prevails upon a motion, as described in paragraph (2).

(2) Upon a motion brought by the district attorney, the court shall order the probation department to prepare a written social study and recommendation concerning whether the person is a fit and proper subject to be dealt with under the juvenile court law. The court shall either conduct a fitness hearing or suspend proceedings and remand the matter to the juvenile court for a determination of fitness. The person shall be subject to a juvenile disposition under the juvenile court law unless the district attorney demonstrates, by a preponderance of the evidence, that the person is not a fit and proper subject to be dealt with under the juvenile court law, based upon the five criteria set forth in paragraph (2) of subdivision (b). If the person is found to be not a fit and proper subject to be dealt with under the juvenile court law, then the person shall be sentenced in the court where he or she was convicted, in accordance with the provisions set forth in subdivision (a) of Section 1170.19. If the person is found to be a fit and proper subject to be dealt with under the juvenile court law, the person shall be subject to a disposition, in accordance with the provisions of subdivision (b) of Section 1170.19.

(d) Where the conviction is for the type of offense which, in combination with the person's age, does not make the person eligible for transfer to a court of criminal jurisdiction, the person shall be subject to a disposition in accordance with the provisions of subdivision (b) of Section 1170.19.

1 ~~SEC. 15.~~

2 *SEC. 16.* Section 1174.4 of the Penal Code is amended
3 to read:

4 1174.4. (a) Persons eligible for participation in this
5 alternative sentencing program shall meet all of the
6 following criteria:

7 (1) Pregnant women with an established history of
8 substance abuse, or pregnant or parenting women with
9 an established history of substance abuse who have one or
10 more children under six years old at the time of entry into
11 the program. For women with children, at least one
12 eligible child shall reside with the mother in the facility.

13 (2) Never served a prior prison term for, nor been
14 convicted in the present proceeding of, committing or
15 attempting to commit, any of the following offenses:

16 (A) Murder or voluntary manslaughter.

17 (B) Mayhem.

18 (C) Rape.

19 (D) Kidnapping.

20 (E) Sodomy by force, violence, duress, menace, or fear
21 of immediate and unlawful bodily injury on the victim or
22 another person.

23 (F) Oral copulation by force, violence, duress,
24 menace, or fear of immediate and unlawful bodily injury
25 on the victim or another person.

26 (G) Lewd acts on a child under 14 years of age, as
27 defined in Section 288.

28 (H) Any felony punishable by death or imprisonment
29 in the state prison for life.

30 (I) Any felony in which the defendant inflicts great
31 bodily injury on any person, other than an accomplice,
32 that has been charged and proved as provided for in
33 Section 12022.53, 12022.7 or 12022.9, or any felony in
34 which the defendant uses a firearm, as provided in
35 Section 12022.5, 12022.53, or 12022.55, in which the use has
36 been charged and proved.

37 (J) Robbery.

38 (K) Any robbery perpetrated in an inhabited dwelling
39 house or trailer coach as defined in the Vehicle Code, or
40 in the inhabited portion of any other building, wherein it

1 is charged and proved that the defendant personally used
2 a deadly or dangerous weapon, as provided in subdivision
3 (b) of Section 12022, in the commission of that robbery.

4 (L) Arson in violation of subdivision (a) of Section 451.

5 (M) Sexual penetration in violation of subdivision (a)
6 of Section 289 if the act is accomplished against the
7 victim's will by force, violence, duress, menace, or fear of
8 immediate and unlawful bodily injury on the victim or
9 another person.

10 (N) Rape or sexual penetration in concert, in violation
11 of Section 264.1.

12 (O) Continual sexual abuse of a child in violation of
13 Section 288.5.

14 (P) Assault with intent to commit mayhem, rape,
15 sodomy, oral copulation, rape in concert, with another,
16 lascivious acts upon a child, or penetration by a foreign
17 object.

18 (Q) Assault with a deadly weapon or with force likely
19 to produce great bodily injury in violation of subdivision
20 (a) of Section 245.

21 (R) Any violent felony defined in Section 667.5.

22 (S) A violation of Section 12022.

23 (T) A violation of Section 12308.

24 (U) Burglary of the first degree.

25 (V) A violation of Section 11351, 11351.5, 11352, 11353,
26 11358, 11359, 11360, 11370.1, 11370.6, 11378, 11378.5, 11379,
27 11379.5, 11379.6, 11380, or 11383 of the Health and Safety
28 Code.

29 (3) Has not been sentenced to state prison for a term
30 exceeding 36 months.

31 (b) Prior to sentencing, if the court proposes to give
32 consideration to a placement, the court shall consider a
33 written evaluation by the probation department, which
34 shall include the following:

35 (1) Whether the defendant is eligible for participation
36 pursuant to this section.

37 (2) Whether participation by the defendant and her
38 eligible children is deemed to be in the best interests of
39 the children.

1 (3) Whether the defendant is amenable to treatment
2 for substance abuse and would benefit from participation
3 in the program.

4 (4) Whether the program is deemed to be in the best
5 interests of an eligible child of the defendant, as
6 determined by a representative of the appropriate child
7 welfare services agency of the county if the child is a
8 dependent child of the juvenile court pursuant to Section
9 300 of the Welfare and Institutions Code.

10 (c) The district attorney shall make a
11 recommendation to the court as to whether or not the
12 defendant would benefit from the program, which the
13 court shall consider in making its decision. If the court's
14 decision is without the concurrence of the district
15 attorney, the court shall specify its reasons in writing and
16 enter them into the record.

17 (d) If the court determines that the defendant may
18 benefit from participation in this program, the court may
19 impose a state prison sentence with the recommendation
20 that the defendant participate in the program pursuant
21 to this chapter. The court shall notify the department
22 within 48 hours of imposition of this sentence.

23 (e) The Director of Corrections shall consider the
24 court's recommendation in making a determination on
25 the inmate's placement in the program.

26 (f) Women accepted for the program by the Director
27 of Corrections shall be delivered by the county, pursuant
28 to Section 1202a, to the facility selected by the
29 department. Before the director accepts a woman for the
30 program, the county shall provide to the director the
31 necessary information to determine her eligibility and
32 appropriate placement status. Priority for services and
33 aftercare shall be given to inmates who are incarcerated
34 in a county, or adjacent to a county, in which a program
35 facility is located.

36 (g) Prior to being admitted to the program, each
37 participant shall voluntarily sign an agreement specifying
38 the terms and conditions of participation in the program.

39 (h) The department may refer inmates back to the
40 sentencing court if the department determines that an



1 eligible inmate has not been recommended for the
2 program. The department shall refer the inmate to the
3 court by an evaluative report so stating the department's
4 assessment of eligibility, and requesting a
5 recommendation by the court.

6 (i) Women who successfully complete the program,
7 including the minimum of one year of transition services
8 under intensive parole supervision, shall be discharged
9 from parole. Women who do not successfully complete
10 the program shall be returned to the state prison where
11 they shall serve their original sentences. These persons
12 shall receive full credit against their original sentences for
13 the time served in the program, pursuant to Section 2933.

14 ~~SEC. 16.~~

15 *SEC. 17.* Section 1240.1 of the Penal Code is amended
16 to read:

17 1240.1. (a) In any noncapital criminal, juvenile court,
18 or civil commitment case wherein the defendant would
19 be entitled to the appointment of counsel on appeal if
20 indigent, it shall be the duty of the attorney who
21 represented the person at trial to provide counsel and
22 advice as to whether arguably meritorious grounds exist
23 for reversal or modification of the judgment on appeal.
24 The attorney shall admonish the defendant that he or she
25 is not able to provide advice concerning his or her own
26 competency, and that the State Public Defender or other
27 counsel should be consulted for advice as to whether an
28 issue regarding the competency of counsel should be
29 raised on appeal. The trial court may require trial counsel
30 to certify that he or she has counseled the defendant as to
31 whether arguably meritorious grounds for appeal exist at
32 the time a notice of appeal is filed. Nothing in this section
33 shall be construed to prevent any person having a right
34 to appeal from doing so.

35 (b) It shall be the duty of every attorney representing
36 an indigent defendant in any criminal, juvenile court, or
37 civil commitment case to execute and file on his or her
38 client's behalf a timely notice of appeal when the attorney
39 is of the opinion that arguably meritorious grounds exist
40 for a reversal or modification of the judgment or orders

1 to be appealed from, and where, in the attorney's
2 judgment, it is in the defendant's interest to pursue any
3 relief that may be available to him or her on appeal; or
4 when directed to do so by a defendant having a right to
5 appeal.

6 With the notice of appeal the attorney shall file a brief
7 statement of the points to be raised on appeal and a
8 designation of any document, paper, pleading, or
9 transcript of oral proceedings necessary to properly
10 present those points on appeal when the document,
11 paper, pleading or transcript of oral proceedings would
12 not be included in the normal record on appeal according
13 to the applicable provisions of the California Rules of
14 Court. The executing of the notice of appeal by the
15 defendant's attorney shall not constitute an undertaking
16 to represent the defendant on appeal unless the
17 undertaking is expressly stated in the notice of appeal.

18 If the defendant was represented by appointed counsel
19 on the trial level, or if it appears that the defendant will
20 request the appointment of counsel on appeal by reason
21 of indigency, the trial attorney shall also assist the
22 defendant in preparing and submitting a motion for the
23 appointment of counsel and any supporting declaration
24 or affidavit as to the defendant's financial condition.
25 These documents shall be filed with the trial court at the
26 time of filing a notice of appeal, and shall be transmitted
27 by the clerk of the trial court to the clerk of the appellate
28 court within three judicial days of their receipt. The
29 appellate court shall act upon that motion without
30 unnecessary delay. An attorney's failure to file a motion
31 for the appointment of counsel with the notice of appeal
32 shall not foreclose the defendant from filing a motion at
33 any time it becomes known to him or her that the
34 attorney has failed to do so, or at any time he or she shall
35 become indigent if he or she was not previously indigent.

36 (c) The State Public Defender shall, at the request of
37 any attorney representing a prospective indigent
38 appellant or at the request of the prospective indigent
39 appellant himself or herself, provide counsel and advice
40 to the prospective indigent appellant or attorney as to

1 whether arguably meritorious grounds exist on which the
2 judgment or order to be appealed from would be
3 reversed or modified on appeal.

4 (d) The failure of a trial attorney to perform any duty
5 prescribed in this section, assign any particular point or
6 error in the notice of appeal, or designate any particular
7 thing for inclusion in the record on appeal shall not
8 foreclose any defendant from filing a notice of appeal on
9 his or her own behalf or from raising any point or
10 argument on appeal; nor shall it foreclose the defendant
11 or his or her counsel on appeal from requesting the
12 augmentation or correction of the record on appeal in the
13 reviewing court.

14 (e) (1) In order to expedite certification of the entire
15 record on appeal in all capital cases, the defendant's trial
16 counsel, whether retained by the defendant or
17 court-appointed, and the prosecutor shall continue to
18 represent the respective parties. Each counsel's
19 obligations extend to taking all steps necessary to
20 facilitate the preparation and timely certification of the
21 record of both municipal and superior court proceedings.

22 (2) The duties imposed on trial counsel in paragraph
23 (1) shall not foreclose the defendant's appellate counsel
24 from requesting additions or corrections to the record on
25 appeal in either the trial court or the Supreme Court in
26 a manner provided by rules of court adopted by the
27 Judicial Council.

28 ~~SEC. 17.~~

29 *SEC. 18.* Section 2933.5 of the Penal Code is amended
30 to read:

31 2933.5. (a) (1) Notwithstanding any other provision
32 of law, every person who is convicted of any felony
33 offense listed in paragraph (2), and who previously has
34 been convicted two or more times, on charges separately
35 brought and tried, and who previously has served two or
36 more separate prior prison terms, as defined in
37 subdivision (g) of Section 667.5, of any offense or offenses
38 listed in paragraph (2), shall be ineligible to earn credit
39 on his or her term of imprisonment pursuant to this
40 chapter.

- 1 (2) As used in this subdivision, “felony offense”
2 includes any of the following:
- 3 (A) Murder, as defined in Sections 187 and 189.
 - 4 (B) Voluntary manslaughter, as defined in subdivision
5 (a) of Section 192.
 - 6 (C) Mayhem as defined in Section 203.
 - 7 (D) Aggravated mayhem, as defined in Section 205.
 - 8 (E) Kidnapping, as defined in Section 207, 209, or
9 209.5.
 - 10 (F) Assault with vitriol, corrosive acid, or caustic
11 chemical of any nature, as described in Section 244.
 - 12 (G) Rape, as defined in paragraph (2) or (6) of
13 subdivision (a) of Section 261 or paragraph (1) or (4) of
14 subdivision (a) of Section 262.
 - 15 (H) Sodomy by means of force, violence, duress,
16 menace or fear of immediate and unlawful bodily injury
17 on the victim or another person, as described in
18 subdivision (c) of Section 286.
 - 19 (I) Sodomy while voluntarily acting in concert, as
20 described in subdivision (d) of Section 286.
 - 21 (J) Lewd or lascivious acts on a child under the age of
22 14 years, as described in subdivision (b) of Section 288.
 - 23 (K) Oral copulation by means of force, violence,
24 duress, menace, or fear of immediate and unlawful bodily
25 injury on the victim or another person, as described in
26 subdivision (c) of Section 288a.
 - 27 (L) Continuous sexual abuse of a child, as described in
28 Section 288.5.
 - 29 (M) Sexual penetration, as described in subdivision
30 (a) of Section 289.
 - 31 (N) Exploding a destructive device or explosive with
32 intent to injure, as described in Section 12303.3, with
33 intent to murder, as described in Section 12308, or
34 resulting in great bodily injury or mayhem, as described
35 in Section 12309.
 - 36 (O) Any felony in which the defendant personally
37 inflicted great bodily injury, as provided in Section
38 12022.53 or 12022.7.
- 39 (b) A prior conviction of an offense listed in
40 subdivision (a) shall include a conviction in another

1 jurisdiction for an offense which includes all of the
2 elements of the particular felony as defined under
3 California law.

4 (c) This section shall apply whenever the present
5 felony is committed on or after the effective date of this
6 section, regardless of the date of commission of the prior
7 offense or offenses resulting in credit-earning
8 ineligibility.

9 (d) This section shall be in addition to, and shall not
10 preclude the imposition of, any applicable sentence
11 enhancement terms, or probation ineligibility and
12 habitual offender provisions authorized under any other
13 section.

14 ~~SEC. 18.~~

15 *SEC. 19.* Section 3046 of the Penal Code is amended
16 to read:

17 3046. (a) No prisoner imprisoned under a life
18 sentence may be paroled until he or she has served the
19 greater of the following:

20 (1) A term of at least seven calendar years.

21 (2) A term as established pursuant to any other
22 provision of law that establishes a minimum term or
23 minimum period of confinement under a life sentence
24 before eligibility for parole.

25 (b) If two or more life sentences are ordered to run
26 consecutively to each other pursuant to Section 669, no
27 prisoner so imprisoned may be paroled until he or she has
28 served the term specified in subdivision (a) on each of the
29 life sentences that are ordered to run consecutively.

30 (c) The Board of Prison Terms shall, in considering a
31 parole for a prisoner, consider all statements and
32 recommendations which may have been submitted by
33 the judge, district attorney, and sheriff, pursuant to
34 Section 1203.01, or in response to notices given under
35 Section 3042, and recommendations of other persons
36 interested in the granting or denying of the parole. The
37 board shall enter on its order granting or denying parole
38 to these prisoners, the fact that the statements and
39 recommendations have been considered by it.

40 ~~SEC. 19.~~

1 *SEC. 20.* Section 11160 of the Penal Code is amended
2 to read:

3 11160. (a) Any health practitioner employed in a
4 health facility, clinic, physician's office, local or state
5 public health department, or a clinic or other type of
6 facility operated by a local or state public health
7 department who, in his or her professional capacity or
8 within the scope of his or her employment, provides
9 medical services for a physical condition to a patient
10 whom he or she knows or reasonably suspects is a person
11 described as follows, shall immediately make a report in
12 accordance with subdivision (b):

13 (1) Any person suffering from any wound or other
14 physical injury inflicted by his or her own act or inflicted
15 by another where the injury is by means of a firearm.

16 (2) Any person suffering from any wound or other
17 physical injury inflicted upon the person where the injury
18 is the result of assaultive or abusive conduct.

19 (b) Any health practitioner employed in a health
20 facility, clinic, physician's office, local or state public
21 health department, or a clinic or other type of facility
22 operated by a local or state public health department
23 shall make a report regarding persons described in
24 subdivision (a) to a local law enforcement agency as
25 follows:

26 (1) A report by telephone shall be made immediately
27 or as soon as practically possible.

28 (2) A written report shall be prepared and sent to a
29 local law enforcement agency within two working days of
30 receiving the information regarding the person.

31 (3) A local law enforcement agency shall be notified
32 and a written report shall be prepared and sent pursuant
33 to paragraphs (1) and (2) even if the person who suffered
34 the wound, other injury, or assaultive or abusive conduct
35 has expired, regardless of whether or not the wound,
36 other injury, or assaultive or abusive conduct was a factor
37 contributing to the death, and even if the evidence of the
38 conduct of the perpetrator of the wound, other injury, or
39 assaultive or abusive conduct was discovered during an
40 autopsy.

(4) The report shall include, but shall not be limited to, the following:

(A) The name of the injured person, if known.

(B) The injured person's whereabouts.

(C) The character and extent of the person's injuries.

(D) The identity of any person the injured person alleges inflicted the wound, other injury, or assaultive or abusive conduct upon the injured person.

(c) For the purposes of this section, "injury" shall not include any psychological or physical condition brought about solely through the voluntary administration of a narcotic or restricted dangerous drug.

(d) For the purposes of this section, "assaultive or abusive conduct" shall include any of the following offenses:

(1) Murder, in violation of Section 187.

(2) Manslaughter, in violation of Section 192 or 192.5.

(3) Mayhem, in violation of Section 203.

(4) Aggravated mayhem, in violation of Section 205.

(5) Torture, in violation of Section 206.

(6) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220.

(7) Administering controlled substances or anesthetic to aid in commission of a felony, in violation of Section 222.

(8) Battery, in violation of Section 242.

(9) Sexual battery, in violation of Section 243.4.

(10) Incest, in violation of Section 285.

(11) Throwing any vitriol, corrosive acid, or caustic chemical with intent to injure or disfigure, in violation of Section 244.

(12) Assault with a stun gun or taser, in violation of Section 244.5.

(13) Assault with a deadly weapon, firearm, assault weapon, or machinegun, or by means likely to produce great bodily injury, in violation of Section 245.

(14) Rape, in violation of Section 261.

(15) Spousal rape, in violation of Section 262.

(16) Procuring any female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c.

1 (17) Child abuse or endangerment, in violation of
2 Section 273a or 273d.

3 (18) Abuse of spouse or cohabitant, in violation of
4 Section 273.5.

5 (19) Sodomy, in violation of Section 286.

6 (20) Lewd and lascivious acts with a child, in violation
7 of Section 288.

8 (21) Oral copulation, in violation of Section 288a.

9 (22) Sexual penetration, in violation of Section 289.

10 (23) Elder abuse, in violation of Section 368.

11 (24) An attempt to commit any crime specified in
12 paragraphs (1) to (23), inclusive.

13 (e) When two or more persons who are required to
14 report are present and jointly have knowledge of a known
15 or suspected instance of violence that is required to be
16 reported pursuant to this section, and when there is an
17 agreement among these persons to report as a team, the
18 team may select by mutual agreement a member of the
19 team to make a report by telephone and a single written
20 report, as required by subdivision (b). The written report
21 shall be signed by the selected member of the reporting
22 team. Any member who has knowledge that the member
23 designated to report has failed to do so shall thereafter
24 make the report.

25 (f) The reporting duties under this section are
26 individual, except as provided in subdivision (e).

27 (g) No supervisor or administrator shall impede or
28 inhibit the reporting duties required under this section
29 and no person making a report pursuant to this section
30 shall be subject to any sanction for making the report.
31 However, internal procedures to facilitate reporting and
32 apprise supervisors and administrators of reports may be
33 established, except that these procedures shall not be
34 inconsistent with this article. The internal procedures
35 shall not require any employee required to make a report
36 under this article to disclose his or her identity to the
37 employer.

38 (h) For the purposes of this section, it is the
39 Legislature's intent to avoid duplication of information.

40 ~~SEC. 20.~~

1 *SEC. 21.* Section 11165.1 of the Penal Code is
2 amended to read:

3 11165.1. As used in this article, “sexual abuse” means
4 sexual assault or sexual exploitation as defined by the
5 following:

6 (a) “Sexual assault” means conduct in violation of one
7 or more of the following sections: Section 261 (rape),
8 subdivision (d) of Section 261.5 (statutory rape), 264.1
9 (rape in concert), 285 (incest), 286 (sodomy), subdivision
10 (a) or (b), or paragraph (1) of subdivision (c) of Section
11 288 (lewd or lascivious acts upon a child), 288a (oral
12 copulation), 289 (sexual penetration), or 647.6 (child
13 molestation).

14 (b) Conduct described as “sexual assault” includes,
15 but is not limited to, all of the following:

16 (1) Any penetration, however slight, of the vagina or
17 anal opening of one person by the penis of another
18 person, whether or not there is the emission of semen.

19 (2) Any sexual contact between the genitals or anal
20 opening of one person and the mouth or tongue of
21 another person.

22 (3) Any intrusion by one person into the genitals or
23 anal opening of another person, including the use of any
24 object for this purpose, except that, it does not include
25 acts performed for a valid medical purpose.

26 (4) The intentional touching of the genitals or
27 intimate parts (including the breasts, genital area, groin,
28 inner thighs, and buttocks) or the clothing covering
29 them, of a child, or of the perpetrator by a child, for
30 purposes of sexual arousal or gratification, except that, it
31 does not include acts which may reasonably be construed
32 to be normal caretaker responsibilities; interactions with,
33 or demonstrations of affection for, the child; or acts
34 performed for a valid medical purpose.

35 (5) The intentional masturbation of the perpetrator’s
36 genitals in the presence of a child.

37 (c) “Sexual exploitation” refers to any of the following:

38 (1) Conduct involving matter depicting a minor
39 engaged in obscene acts in violation of Section 311.2
40 (preparing, selling, or distributing obscene matter) or

1 subdivision (a) of Section 311.4 (employment of minor to
2 perform obscene acts).

3 (2) Any person who knowingly promotes, aids, or
4 assists, employs, uses, persuades, induces, or coerces a
5 child, or any person responsible for a child's welfare, who
6 knowingly permits or encourages a child to engage in, or
7 assist others to engage in, prostitution or a live
8 performance involving obscene sexual conduct, or to
9 either pose or model alone or with others for purposes of
10 preparing a film, photograph, negative, slide, drawing,
11 painting, or other pictorial depiction, involving obscene
12 sexual conduct. For the purpose of this section, "person
13 responsible for a child's welfare" means a parent,
14 guardian, foster parent, or a licensed administrator or
15 employee of a public or private residential home,
16 residential school, or other residential institution.

17 (3) Any person who depicts a child in, or who
18 knowingly develops, duplicates, prints, or exchanges, any
19 film, photograph, video tape, negative, or slide in which
20 a child is engaged in an act of obscene sexual conduct,
21 except for those activities by law enforcement and
22 prosecution agencies and other persons described in
23 subdivisions (c) and (e) of Section 311.3.

24 ~~SEC. 21.~~

25 *SEC. 22.* Section 12020 of the Penal Code is amended
26 to read:

27 12020. (a) Any person in this state who does any of
28 the following is punishable by imprisonment in a county
29 jail not exceeding one year or in the state prison:

30 (1) Manufactures or causes to be manufactured,
31 imports into the state, keeps for sale, or offers or exposes
32 for sale, or who gives, lends, or possesses any cane gun or
33 wallet gun, any undetectable firearm, any firearm which
34 is not immediately recognizable as a firearm, any
35 camouflaging firearm container, any ammunition which
36 contains or consists of any fléchette dart, any bullet
37 containing or carrying an explosive agent, any ballistic
38 knife, any multiburst trigger activator, any nunchaku,
39 any short-barreled shotgun, any short-barreled rifle, any
40 metal knuckles, any belt buckle knife, any leaded cane,



1 any zip gun, any shuriken, any unconventional pistol, any
2 lipstick case knife, any cane sword, any shobi-zue, any air
3 gauge knife, any writing pen knife, any metal military
4 practice handgrenade or metal replica handgrenade, or
5 any instrument or weapon of the kind commonly known
6 as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

7 (2) Commencing January 1, 2000, manufactures or
8 causes to be manufactured, imports into the state, keeps
9 for sale, or offers or exposes for sale, or who gives, or lends,
10 any large-capacity magazine.

11 (3) Carries concealed upon his or her person any
12 explosive substance, other than fixed ammunition.

13 (4) Carries concealed upon his or her person any dirk
14 or dagger.

15 However, a first offense involving any metal military
16 practice handgrenade or metal replica handgrenade shall
17 be punishable only as an infraction unless the offender is
18 an active participant in a criminal street gang as defined
19 in the Street Terrorism and Enforcement and Prevention
20 Act (Chapter 11 (commencing with Section 186.20) of
21 Title 7 of Part 1). A bullet containing or carrying an
22 explosive agent is not a destructive device as that term is
23 used in Section 12301.

24 (b) Subdivision (a) does not apply to any of the
25 following:

26 (1) The sale to, purchase by, or possession of
27 short-barreled shotguns or short-barreled rifles by police
28 departments, sheriffs' offices, marshals' offices, the
29 California Highway Patrol, the Department of Justice, or
30 the military or naval forces of this state or of the United
31 States for use in the discharge of their official duties or the
32 possession of short-barreled shotguns and short-barreled
33 rifles by peace officer members of a police department,
34 sheriff's office, marshal's office, the California Highway
35 Patrol, or the Department of Justice when on duty and
36 the use is authorized by the agency and is within the
37 course and scope of their duties and the peace officer has
38 completed a training course in the use of these weapons
39 certified by the Commission on Peace Officer Standards
40 and Training.

1 (2) The manufacture, possession, transportation or
2 sale of short-barreled shotguns or short-barreled rifles
3 when authorized by the Department of Justice pursuant
4 to Article 6 (commencing with Section 12095) of this
5 chapter and not in violation of federal law.

6 (3) The possession of a nunchaku on the premises of a
7 school which holds a regulatory or business license and
8 teaches the arts of self-defense.

9 (4) The manufacture of a nunchaku for sale to, or the
10 sale of a nunchaku to, a school which holds a regulatory
11 or business license and teaches the arts of self-defense.

12 (5) Any antique firearm. For purposes of this section,
13 “antique firearm” means any firearm not designed or
14 redesigned for using rimfire or conventional center fire
15 ignition with fixed ammunition and manufactured in or
16 before 1898 (including any matchlock, flintlock,
17 percussion cap, or similar type of ignition system or
18 replica thereof, whether actually manufactured before or
19 after the year 1898) and also any firearm using fixed
20 ammunition manufactured in or before 1898, for which
21 ammunition is no longer manufactured in the United
22 States and is not readily available in the ordinary channels
23 of commercial trade.

24 (6) Tracer ammunition manufactured for use in
25 shotguns.

26 (7) Any firearm or ammunition which is a curio or relic
27 as defined in Section 178.11 of Title 27 of the Code of
28 Federal Regulations and which is in the possession of a
29 person permitted to possess the items pursuant to
30 Chapter 44 (commencing with Section 921) of Title 18 of
31 the United States Code and the regulations issued
32 pursuant thereto. Any person prohibited by Section
33 12021, 12021.1, or 12101 of this code or Section 8100 or 8103
34 of the Welfare and Institutions Code from possessing
35 firearms or ammunition who obtains title to these items
36 by bequest or intestate succession may retain title for not
37 more than one year, but actual possession of these items
38 at any time is punishable pursuant to Section 12021,
39 12021.1, or 12101 of this code or Section 8100 or 8103 of the
40 Welfare and Institutions Code. Within the year, the

1 person shall transfer title to the firearms or ammunition
2 by sale, gift, or other disposition. Any person who violates
3 this paragraph is in violation of subdivision (a).

4 (8) Any other weapon as defined in subsection (e) of
5 Section 5845 of Title 26 of the United States Code and
6 which is in the possession of a person permitted to possess
7 the weapons pursuant to the federal Gun Control Act of
8 1968 (Public Law 90-618), as amended, and the
9 regulations issued pursuant thereto. Any person
10 prohibited by Section 12021, 12021.1, or 12101 of this code
11 or Section 8100 or 8103 of the Welfare and Institutions
12 Code from possessing these weapons who obtains title to
13 these weapons by bequest or intestate succession may
14 retain title for not more than one year, but actual
15 possession of these weapons at any time is punishable
16 pursuant to Section 12021, 12021.1, or 12101 of this code or
17 Section 8100 or 8103 of the Welfare and Institutions Code.
18 Within the year, the person shall transfer title to the
19 weapons by sale, gift, or other disposition. Any person
20 who violates this paragraph is in violation of subdivision
21 (a). The exemption provided in this subdivision does not
22 apply to pen guns.

23 (9) Instruments or devices that are possessed by
24 federal, state, and local historical societies, museums, and
25 institutional collections which are open to the public,
26 provided that these instruments or devices are properly
27 housed, secured from unauthorized handling, and, if the
28 instrument or device is a firearm, unloaded.

29 (10) Instruments or devices, other than short-barreled
30 shotguns or short-barreled rifles, that are possessed or
31 utilized during the course of a motion picture, television,
32 or video production or entertainment event by an
33 authorized participant therein in the course of making
34 that production or event or by an authorized employee
35 or agent of the entity producing that production or event.

36 (11) Instruments or devices, other than short-barreled
37 shotguns or short-barreled rifles, that are sold by,
38 manufactured by, exposed or kept for sale by, possessed
39 by, imported by, or lent by persons who are in the
40 business of selling instruments or devices listed in

1 subdivision (a) solely to the entities referred to in
2 paragraphs (9) and (10) when engaging in transactions
3 with those entities.

4 (12) The sale to, possession of, or purchase of any
5 weapon, device, or ammunition, other than a
6 short-barreled rifle or short-barreled shotgun, by any
7 federal, state, county, city and county, or city agency that
8 is charged with the enforcement of any law for use in the
9 discharge of their official duties, or the possession of any
10 weapon, device, or ammunition, other than a
11 short-barreled rifle or short-barreled shotgun, by peace
12 officers thereof when on duty and the use is authorized
13 by the agency and is within the course and scope of their
14 duties.

15 (13) Weapons, devices, and ammunition, other than a
16 short-barreled rifle or short-barreled shotgun, that are
17 sold by, manufactured by, exposed or kept for sale by,
18 possessed by, imported by, or lent by, persons who are in
19 the business of selling weapons, devices, and ammunition
20 listed in subdivision (a) solely to the entities referred to
21 in paragraph (12) when engaging in transactions with
22 those entities.

23 (14) The manufacture for, sale to, exposing or keeping
24 for sale to, importation of, or lending of wooden clubs or
25 batons to special police officers or uniformed security
26 guards authorized to carry any wooden club or baton
27 pursuant to Section 12002 by entities that are in the
28 business of selling wooden batons or clubs to special police
29 officers and uniformed security guards when engaging in
30 transactions with those persons.

31 (15) Any plastic toy handgrenade, or any metal
32 military practice handgrenade or metal replica
33 handgrenade that is a relic, curio, memorabilia, or display
34 item, that is filled with a permanent inert substance or
35 that is otherwise permanently altered in a manner that
36 prevents ready modification for use as a grenade.

37 (16) Any instrument, ammunition, weapon, or device
38 listed in subdivision (a) that is not a firearm that is found
39 and possessed by a person who meets all of the following:



1 (A) The person is not prohibited from possessing
2 firearms or ammunition pursuant to Section 12021 or
3 12021.1 or paragraph (1) of subdivision (b) of Section
4 12316 of this code or Section 8100 or 8103 of the Welfare
5 and Institutions Code.

6 (B) The person possessed the instrument,
7 ammunition, weapon, or device no longer than was
8 necessary to deliver or transport the same to a law
9 enforcement agency for that agency's disposition
10 according to law.

11 (C) If the person is transporting the listed item, he or
12 she is transporting the listed item to a law enforcement
13 agency for disposition according to law.

14 (17) Any firearm, other than a short-barreled rifle or
15 short-barreled shotgun, that is found and possessed by a
16 person who meets all of the following:

17 (A) The person is not prohibited from possessing
18 firearms or ammunition pursuant to Section 12021 or
19 12021.1 or paragraph (1) of subdivision (b) of Section
20 12316 of this code or Section 8100 or 8103 of the Welfare
21 and Institutions Code.

22 (B) The person possessed the firearm no longer than
23 was necessary to deliver or transport the same to a law
24 enforcement agency for that agency's disposition
25 according to law.

26 (C) If the person is transporting the firearm, he or she
27 is transporting the firearm to a law enforcement agency
28 for disposition according to law.

29 (D) Prior to transporting the firearm to a law
30 enforcement agency, he or she has given prior notice to
31 that law enforcement agency that he or she is
32 transporting the firearm to that law enforcement agency
33 for disposition according to law.

34 (E) The firearm is transported in a locked container as
35 defined in subdivision (d) of Section 12026.2.

36 (18) The possession of any weapon, device, or
37 ammunition, by a forensic laboratory or any authorized
38 agent or employee thereof in the course and scope of his
39 or her authorized activities.



1 (19) The sale of, giving of, lending of, importation into
2 this state of, or purchase of, any large-capacity magazine
3 to or by any federal, state, county, city and county, or city
4 agency that is charged with the enforcement of any law,
5 for use by agency employees in the discharge of their
6 official duties whether on or off duty, and where the use
7 is authorized by the agency and is within the course and
8 scope of their duties.

9 (20) The sale to, lending to, transfer to, purchase by,
10 receipt of, or importation into this state of, a large
11 capacity magazine by a sworn peace officer as defined in
12 Chapter 4.5 (commencing with Section 830) of Title 3 of
13 Part 2 who is authorized to carry a firearm in the course
14 and scope of his or her duties.

15 (21) The sale or purchase of any large-capacity
16 magazine to or by a person licensed pursuant to Section
17 12071.

18 (22) The loan of a lawfully possessed large-capacity
19 magazine between two individuals if all of the following
20 conditions are met:

21 (A) The person being loaned the large-capacity
22 magazine is not prohibited by Section 12021, 12021.1, or
23 12101 of this code or Section 8100 or 8103 of the Welfare
24 and Institutions Code from possessing firearms or
25 ammunition.

26 (B) The loan of the large-capacity magazine occurs at
27 a place or location where the possession of the
28 large-capacity magazine is not otherwise prohibited and
29 the person who lends the large-capacity magazine
30 remains in the accessible vicinity of the person to whom
31 the large-capacity magazine is loaned.

32 (23) The importation of a large-capacity magazine by
33 a person who lawfully possessed the large-capacity
34 magazine in the state prior to January 1, 2000, lawfully
35 took it out of the state, and is returning to the state with
36 the large-capacity magazine previously lawfully
37 possessed in the state.

38 (24) The lending or giving of any large-capacity
39 magazine to a person licensed pursuant to Section 12071,



1 or to a gunsmith, for the purposes of maintenance, repair,
2 or modification of that large-capacity magazine.

3 (25) The return to its owner of any large-capacity
4 magazine by a person specified in paragraph (24).

5 (26) The importation into this state of, or sale of, any
6 large-capacity magazine by a person who has been issued
7 a permit to engage in those activities pursuant to Section
8 12079, when those activities are in accordance with the
9 terms and conditions of that permit.

10 (27) The sale of, giving of, lending of, importation into
11 this state of, or purchase of, any large-capacity magazine,
12 to or by entities that operate armored vehicle businesses
13 pursuant to the laws of this state.

14 (28) The lending of large-capacity magazines by the
15 entities specified in paragraph (27) to their authorized
16 employees, while in the course and scope of their
17 employment for purposes that pertain to the entity's
18 armored vehicle business.

19 (29) The return of those large-capacity magazines to
20 those entities specified in paragraph (27) by those
21 employees specified in paragraph (28).

22 (c) (1) As used in this section, a "short-barreled
23 shotgun" means any of the following:

24 (A) A firearm which is designed or redesigned to fire
25 a fixed shotgun shell and having a barrel or barrels of less
26 than 18 inches in length.

27 (B) A firearm which has an overall length of less than
28 26 inches and which is designed or redesigned to fire a
29 fixed shotgun shell.

30 (C) Any weapon made from a shotgun (whether by
31 alteration, modification, or otherwise) if that weapon, as
32 modified, has an overall length of less than 26 inches or a
33 barrel or barrels of less than 18 inches in length.

34 (D) Any device which may be readily restored to fire
35 a fixed shotgun shell which, when so restored, is a device
36 defined in subparagraphs (A) to (C), inclusive.

37 (E) Any part, or combination of parts, designed and
38 intended to convert a device into a device defined in
39 subparagraphs (A) to (C), inclusive, or any combination
40 of parts from which a device defined in subparagraphs

1 (A) to (C), inclusive, can be readily assembled if those
2 parts are in the possession or under the control of the
3 same person.

4 (2) As used in this section, a “short-barreled rifle”
5 means any of the following:

6 (A) A rifle having a barrel or barrels of less than 16
7 inches in length.

8 (B) A rifle with an overall length of less than 26 inches.

9 (C) Any weapon made from a rifle (whether by
10 alteration, modification, or otherwise) if that weapon, as
11 modified, has an overall length of less than 26 inches or a
12 barrel or barrels of less than 16 inches in length.

13 (D) Any device which may be readily restored to fire
14 a fixed cartridge which, when so restored, is a device
15 defined in subparagraphs (A) to (C), inclusive.

16 (E) Any part, or combination of parts, designed and
17 intended to convert a device into a device defined in
18 subparagraphs (A) to (C), inclusive, or any combination
19 of parts from which a device defined in subparagraphs
20 (A) to (C), inclusive, may be readily assembled if those
21 parts are in the possession or under the control of the
22 same person.

23 (3) As used in this section, a “nunchaku” means an
24 instrument consisting of two or more sticks, clubs, bars or
25 rods to be used as handles, connected by a rope, cord,
26 wire, or chain, in the design of a weapon used in
27 connection with the practice of a system of self-defense
28 such as karate.

29 (4) As used in this section, a “wallet gun” means any
30 firearm mounted or enclosed in a case, resembling a
31 wallet, designed to be or capable of being carried in a
32 pocket or purse, if the firearm may be fired while
33 mounted or enclosed in the case.

34 (5) As used in this section, a “cane gun” means any
35 firearm mounted or enclosed in a stick, staff, rod, crutch,
36 or similar device, designed to be, or capable of being used
37 as, an aid in walking, if the firearm may be fired while
38 mounted or enclosed therein.

39 (6) As used in this section, a “fléchette dart” means a
40 dart, capable of being fired from a firearm, which

1 measures approximately one inch in length, with tail fins
2 which take up five-sixteenths of an inch of the body.

3 (7) As used in this section, “metal knuckles” means
4 any device or instrument made wholly or partially of
5 metal which is worn for purposes of offense or defense in
6 or on the hand and which either protects the wearer’s
7 hand while striking a blow or increases the force of impact
8 from the blow or injury to the individual receiving the
9 blow. The metal contained in the device may help
10 support the hand or fist, provide a shield to protect it, or
11 consist of projections or studs which would contact the
12 individual receiving a blow.

13 (8) As used in this section, a “ballistic knife” means a
14 device that propels a knifelike blade as a projectile by
15 means of a coil spring, elastic material, or compressed gas.
16 Ballistic knife does not include any device which propels
17 an arrow or a bolt by means of any common bow,
18 compound bow, crossbow, or underwater spear gun.

19 (9) As used in this section, a “camouflaging firearm
20 container” means a container which meets all of the
21 following criteria:

22 (A) It is designed and intended to enclose a firearm.

23 (B) It is designed and intended to allow the firing of
24 the enclosed firearm by external controls while the
25 firearm is in the container.

26 (C) It is not readily recognizable as containing a
27 firearm.

28 “Camouflaging firearm container” does not include
29 any camouflaging covering used while engaged in lawful
30 hunting or while going to or returning from a lawful
31 hunting expedition.

32 (10) As used in this section, a “zip gun” means any
33 weapon or device which meets all of the following
34 criteria:

35 (A) It was not imported as a firearm by an importer
36 licensed pursuant to Chapter 44 (commencing with
37 Section 921) of Title 18 of the United States Code and the
38 regulations issued pursuant thereto.

39 (B) It was not originally designed to be a firearm by a
40 manufacturer licensed pursuant to Chapter 44

1 (commencing with Section 921) of Title 18 of the United
2 States Code and the regulations issued pursuant thereto.

3 (C) No tax was paid on the weapon or device nor was
4 an exemption from paying tax on that weapon or device
5 granted under Section 4181 and subchapters F
6 (commencing with Section 4216) and G (commencing
7 with Section 4221) of Chapter 32 of Title 26 of the United
8 States Code, as amended, and the regulations issued
9 pursuant thereto.

10 (D) It is made or altered to expel a projectile by the
11 force of an explosion or other form of combustion.

12 (11) As used in this section, a “shuriken” means any
13 instrument, without handles, consisting of a metal plate
14 having three or more radiating points with one or more
15 sharp edges and designed in the shape of a polygon,
16 trefoil, cross, star, diamond, or other geometric shape for
17 use as a weapon for throwing.

18 (12) As used in this section, an “unconventional pistol”
19 means a firearm that does not have a rifled bore and has
20 a barrel or barrels of less than 18 inches in length or has
21 an overall length of less than 26 inches.

22 (13) As used in this section, a “belt buckle knife” is a
23 knife which is made an integral part of a belt buckle and
24 consists of a blade with a length of at least 2½ inches.

25 (14) As used in this section, a “lipstick case knife”
26 means a knife enclosed within and made an integral part
27 of a lipstick case.

28 (15) As used in this section, a “cane sword” means a
29 cane, swagger stick, stick, staff, rod, pole, umbrella, or
30 similar device, having concealed within it a blade that
31 may be used as a sword or stiletto.

32 (16) As used in this section, a “shobi-zue” means a staff,
33 crutch, stick, rod, or pole concealing a knife or blade
34 within it which may be exposed by a flip of the wrist or
35 by a mechanical action.

36 (17) As used in this section, a “leaded cane” means a
37 staff, crutch, stick, rod, pole, or similar device,
38 unnaturally weighted with lead.

39 (18) As used in this section, an “air gauge knife” means
40 a device that appears to be an air gauge but has concealed

1 within it a pointed, metallic shaft that is designed to be a
2 stabbing instrument which is exposed by mechanical
3 action or gravity which locks into place when extended.

4 (19) As used in this section, a “writing pen knife”
5 means a device that appears to be a writing pen but has
6 concealed within it a pointed, metallic shaft that is
7 designed to be a stabbing instrument which is exposed by
8 mechanical action or gravity which locks into place when
9 extended or the pointed, metallic shaft is exposed by the
10 removal of the cap or cover on the device.

11 (20) As used in this section, a “rifle” means a weapon
12 designed or redesigned, made or remade, and intended
13 to be fired from the shoulder and designed or redesigned
14 and made or remade to use the energy of the explosive in
15 a fixed cartridge to fire only a single projectile through a
16 rifled bore for each single pull of the trigger.

17 (21) As used in this section, a “shotgun” means a
18 weapon designed or redesigned, made or remade, and
19 intended to be fired from the shoulder and designed or
20 redesigned and made or remade to use the energy of the
21 explosive in a fixed shotgun shell to fire through a smooth
22 bore either a number of projectiles (ball shot) or a single
23 projectile for each pull of the trigger.

24 (22) As used in this section, an “undetectable firearm”
25 means any weapon which meets one of the following
26 requirements:

27 (A) When, after removal of grips, stocks, and
28 magazines, it is not as detectable as the Security
29 Exemplar, by walk-through metal detectors calibrated
30 and operated to detect the Security Exemplar.

31 (B) When any major component of which, when
32 subjected to inspection by the types of X-ray machines
33 commonly used at airports, does not generate an image
34 that accurately depicts the shape of the component.
35 Barium sulfate or other compounds may be used in the
36 fabrication of the component.

37 (C) For purposes of this paragraph, the terms
38 “firearm,” “major component,” and “Security Exemplar”
39 have the same meanings as those terms are defined in
40 Section 922 of Title 18 of the United States Code.

1 All firearm detection equipment newly installed in
2 nonfederal public buildings in this state shall be of a type
3 identified by either the United States Attorney General,
4 the Secretary of Transportation, or the Secretary of the
5 Treasury, as appropriate, as available state-of-the-art
6 equipment capable of detecting an undetectable firearm,
7 as defined, while distinguishing innocuous metal objects
8 likely to be carried on one's person sufficient for
9 reasonable passage of the public.

10 (23) As used in this section, a "multiburst trigger
11 activator" means one of the following devices:

12 (A) A device designed or redesigned to be attached
13 to a semiautomatic firearm which allows the firearm to
14 discharge two or more shots in a burst by activating the
15 device.

16 (B) A manual or power-driven trigger activating
17 device constructed and designed so that when attached
18 to a semiautomatic firearm it increases the rate of fire of
19 that firearm.

20 (24) As used in this section, a "dirk" or "dagger" means
21 a knife or other instrument with or without a handguard
22 that is capable of ready use as a stabbing weapon that may
23 inflict great bodily injury or death. A nonlocking folding
24 knife, a folding knife that is not prohibited by Section
25 653k, or a pocketknife is capable of ready use as a stabbing
26 weapon that may inflict great bodily injury or death only
27 if the blade of the knife is exposed and locked into
28 position.

29 (25) As used in this section, "large-capacity magazine"
30 means any ammunition feeding device with the capacity
31 to accept more than 10 rounds, but shall not be construed
32 to include a feeding device that has been permanently
33 altered so that it cannot accommodate more than 10
34 rounds nor shall it include any .22 caliber tube
35 ammunition feeding device.

36 (d) Knives carried in sheaths which are worn openly
37 suspended from the waist of the wearer are not concealed
38 within the meaning of this section.

39 ~~SEC. 22.~~

1 *SEC. 23.* Section 12022.53 of the Penal Code is
2 amended to read:

3 12022.53. (a) This section applies to the following
4 felonies:

5 (1) Section 187 (murder).

6 (2) Section 203 or 205 (mayhem).

7 (3) Section 207, 209, or 209.5 (kidnapping).

8 (4) Section 211 (robbery).

9 (5) Section 215 (carjacking).

10 (6) Section 220 (assault with intent to commit a
11 specified felony).

12 (7) Subdivision (d) of Section 245 (assault with a
13 firearm on a peace officer or firefighter).

14 (8) Section 261 or 262 (rape).

15 (9) Section 264.1 (rape or sexual penetration in
16 concert).

17 (10) Section 286 (sodomy).

18 (11) Section 288 or 288.5 (lewd act on a child).

19 (12) Section 288a (oral copulation).

20 (13) Section 289 (sexual penetration).

21 (14) Section 4500 (assault by life prisoner).

22 (15) Section 4501 (assault by prisoner).

23 (16) Section 4503 (holding a hostage by prisoner).

24 (17) Any felony punishable by death or imprisonment
25 in the state prison for life.

26 (18) Any attempt to commit a crime listed in this
27 subdivision other than an assault.

28 (b) Notwithstanding any other provision of law, any
29 person who is convicted of a felony specified in
30 subdivision (a), and who in the commission of that felony
31 personally used a firearm, shall be punished by a term of
32 imprisonment of 10 years in the state prison, which shall
33 be imposed in addition and consecutive to the
34 punishment prescribed for that felony. The firearm need
35 not be operable or loaded for this enhancement to apply.

36 (c) Notwithstanding any other provision of law, any
37 person who is convicted of a felony specified in
38 subdivision (a), and who in the commission of that felony
39 intentionally and personally discharged a firearm, shall
40 be punished by a term of imprisonment of 20 years in the

1 state prison, which shall be imposed in addition and
2 consecutive to the punishment prescribed for that felony.

3 (d) Notwithstanding any other provision of law, any
4 person who is convicted of a felony specified in
5 subdivision (a), Section 246, or subdivision (c) or (d) of
6 Section 12034, and who in the commission of that felony
7 intentionally and personally discharged a firearm and
8 proximately caused great bodily injury, as defined in
9 Section 12022.7, or death, to any person other than an
10 accomplice, shall be punished by a term of imprisonment
11 of 25 years to life in the state prison, which shall be
12 imposed in addition and consecutive to the punishment
13 prescribed for that felony.

14 (e) (1) The enhancements specified in this section
15 shall apply to any person charged as a principal in the
16 commission of an offense that includes an allegation
17 pursuant to this section when a violation of both this
18 section and subdivision (b) of Section 186.22 are pled and
19 proved.

20 (2) An enhancement for participation in a criminal
21 street gang pursuant to Chapter 11 (commencing with
22 Section 186.20) of Title 7 of Part 1, shall not be imposed
23 on a person in addition to an enhancement imposed
24 pursuant to this subdivision, unless the person personally
25 used or personally discharged a firearm in the
26 commission of the offense.

27 (f) Only one additional term of imprisonment under
28 this section shall be imposed per person for each crime.
29 If more than one enhancement per person is found true
30 under this section, the court shall impose upon that
31 person the enhancement that provides the longest term
32 of imprisonment. An enhancement involving a firearm
33 specified in Section 12021.5, 12022, 12022.3, 12022.4,
34 12022.5, or 12022.55 shall not be imposed on a person in
35 addition to an enhancement imposed pursuant to this
36 section. An enhancement for great bodily injury as
37 defined in Section 12022.7, 12022.8, or 12022.9 shall not be
38 imposed on a person in addition to an enhancement
39 imposed pursuant to subdivision (d).



(g) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person found to come within the provisions of this section.

(h) Notwithstanding Section 1385 or any other provision of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(i) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 or pursuant to Section 4019 or any other provision of law shall not exceed 15 percent of the total term of imprisonment imposed on a defendant upon whom a sentence is imposed pursuant to this section.

(j) For the penalties in this section to apply, the existence of any fact required under subdivision (b), (c), or (d) shall be alleged in the information or indictment and either admitted by the defendant in open court or found to be true by the trier of fact. When an enhancement specified in this section has been admitted or found to be true, the court shall impose punishment pursuant to this section rather than imposing punishment authorized under any other provision of law, unless another provision of law provides for a greater penalty or a longer term of imprisonment.

(k) When a person is found to have used or discharged a firearm in the commission of an offense that includes an allegation pursuant to this section and the firearm is owned by that person, a coparticipant, or a coconspirator, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(l) The enhancements specified in this section shall not apply to the lawful use or discharge of a firearm by a public officer, as provided in Section 196, or by any person in lawful self-defense, lawful defense of another, or lawful defense of property, as provided in Sections 197, 198, and 198.5.

~~SEC. 23.~~

1 *SEC. 24.* Section 12280 of the Penal Code is amended
2 to read:

3 12280. (a) (1) Any person who, within this state,
4 manufactures or causes to be manufactured, distributes,
5 transports, or imports into the state, keeps for sale, or
6 offers or exposes for sale, or who gives or lends any assault
7 weapon, except as provided by this chapter, is guilty of a
8 felony, and upon conviction shall be punished by
9 imprisonment in the state prison for four, six, or eight
10 years.

11 (2) In addition and consecutive to the punishment
12 imposed under paragraph (1), any person who transfers,
13 lends, sells, or gives any assault weapon to a minor in
14 violation of paragraph (1) shall receive an enhancement
15 of one year.

16 (b) Except as provided in Section 12288, and in
17 subdivisions (c) and (d), any person who, within this
18 state, possesses any assault weapon, except as provided in
19 this chapter, is guilty of a public offense and upon
20 conviction shall be punished by imprisonment in the state
21 prison, or in a county jail, not exceeding one year.
22 However, if the person presents proof that he or she
23 lawfully possessed the assault weapon prior to June 1,
24 1989, or prior to the date it was specified as an assault
25 weapon, and has since either registered the firearm and
26 any other lawfully obtained firearm specified by Section
27 12276 or 12276.5 pursuant to Section 12285 or relinquished
28 them pursuant to Section 12288, a first-time violation of
29 this subdivision shall be an infraction punishable by a fine
30 of up to five hundred dollars (\$500), but not less than
31 three hundred fifty dollars (\$350), if the person has
32 otherwise possessed the firearm in compliance with
33 subdivision (c) of Section 12285. In these cases, the
34 firearm shall be returned unless the court finds in the
35 interest of public safety, after notice and hearing, that the
36 assault weapon should be destroyed pursuant to Section
37 12028.

38 (c) A first-time violation of subdivision (b) shall be an
39 infraction punishable by a fine of up to five hundred
40 dollars (\$500), if the person was found in possession of no

1 more than two firearms in compliance with subdivision
2 (c) of Section 12285 and the person meets all of the
3 following conditions:

4 (1) The person proves that he or she lawfully possessed
5 the assault weapon prior to the date it was defined as an
6 assault weapon pursuant to Section 12276.1.

7 (2) The person is not found in possession of a firearm
8 specified as an assault weapon pursuant to Section 12276
9 or Section 12276.5.

10 (3) The person has not previously been convicted of
11 violating this section.

12 (4) The person was found to be in possession of the
13 assault weapons within one year following the end of the
14 one-year registration period established pursuant to
15 subdivision (a) of Section 12285.

16 (5) The person has since registered the firearms and
17 any other lawfully obtained firearms defined by Section
18 12276.1, pursuant to Section 12285, except as provided for
19 by this section, or relinquished them pursuant to Section
20 12288.

21 (d) Firearms seized pursuant to subdivision (c) shall
22 be returned unless the court finds in the interest of public
23 safety, after notice and hearing, that the assault weapon
24 should be destroyed pursuant to Section 12028.

25 (e) Notwithstanding Section 654 or any other
26 provision of law, any person who commits another crime
27 while violating this section may receive an additional,
28 consecutive punishment of one year for violating this
29 section in addition and consecutive to the punishment,
30 including enhancements, which is prescribed for the
31 other crime.

32 (f) Subdivisions (a) and (b) shall not apply to the sale
33 to, purchase by, or possession of assault weapons by the
34 Department of Justice, police departments, sheriffs'
35 offices, marshals' offices, the Youth and Adult Corrections
36 Agency, the Department of the California Highway
37 Patrol, district attorneys' offices, Department of Fish and
38 Game, Department of Parks and Recreation, or the
39 military or naval forces of this state or of the United States
40 for use in the discharge of their official duties.

(g) Subdivision (b) shall not prohibit the possession or use of assault weapons by sworn peace officer members of those agencies specified in subdivision (f) for law enforcement purposes, whether on or off duty.

(h) Subdivisions (a) and (b) shall not prohibit the sale or transfer of assault weapons by an entity specified in subdivision (f) to a person, upon retirement, who retired as a sworn officer from that entity.

(i) Subdivision (b) shall not apply to the possession of an assault weapon by a retired peace officer who received that assault weapon pursuant to subdivision (h).

(j) Subdivision (b) shall not apply to the possession of an assault weapon, as defined in Section 12276, by any person during the 1990 calendar year, during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, if the weapon is specified as an assault weapon pursuant to Section 12276, or prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(k) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (f).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of

1 distribution to an entity listed in paragraphs (4) to (6),
2 inclusive.

3 (4) Federal military and law enforcement agencies.

4 (5) Law enforcement and military agencies of other
5 states.

6 (6) Foreign governments and agencies approved by
7 the United States State Department.

8 (l) Subdivision (a) shall not apply to a person who is
9 the executor or administrator of an estate that includes an
10 assault weapon registered under Section 12285 or that was
11 possessed pursuant to subdivision (g) or (i) which is
12 disposed of as authorized by the probate court, if the
13 disposition is otherwise permitted by this chapter.

14 (m) Subdivision (b) shall not apply to a person who is
15 the executor or administrator of an estate that includes an
16 assault weapon registered under Section 12285 or that was
17 possessed pursuant to subdivision (g) or (i), if the assault
18 weapon is possessed at a place set forth in paragraph (1)
19 of subdivision (c) of Section 12285 or as authorized by the
20 probate court.

21 (n) Subdivision (a) shall not apply to:

22 (1) A person who lawfully possesses and has registered
23 an assault weapon pursuant to this chapter who lends that
24 assault weapon to another if all the following apply:

25 (A) The person to whom the assault weapon is lent is
26 18 years of age or over and is not in a class of persons
27 prohibited from possessing firearms by virtue of Section
28 12021 or 12021.1 of this code or Section 8100 or 8103 of the
29 Welfare and Institutions Code.

30 (B) The person to whom the assault weapon is lent
31 remains in the presence of the registered possessor of the
32 assault weapon.

33 (C) The assault weapon is possessed at any of the
34 following locations:

35 (i) While on a target range that holds a regulatory or
36 business license for the purpose of practicing shooting at
37 that target range.

38 (ii) While on the premises of a target range of a public
39 or private club or organization organized for the purpose
40 of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(o) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (n).

(p) Subdivisions (a) and (b) shall not apply to the possession and importation of an assault weapon into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon.

(2) The competition or match is conducted on the premises of one of the following:

(i) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(q) Subdivision (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286.

(2) A person who has a permit to possess an assault weapon issued pursuant to Section 12286 when he or she is acting in accordance with Section 12285 or 12286.

(r) Subdivisions (a) and (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286 or 12290.

(s) Subdivision (b) shall not apply to the registered owner of an assault weapon possessing that firearm in accordance with subdivision (c) of Section 12285.

(t) Subdivision (a) shall not apply to the importation into this state of an assault weapon by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

~~SEC. 24.~~

SEC. 25. Section 21221.5 of the Vehicle Code is amended to read:

21221.5. Notwithstanding Section 21221, it is unlawful for any person to operate a motorized scooter upon a highway while under the influence of an alcoholic beverage or any drug, or under the combined influence of an alcoholic beverage and any drug. Any person arrested for a violation of this section may request to have a chemical test made of the person's blood or breath for the purpose of determining the alcoholic or drug content of that person's blood pursuant to subdivision (d) of Section 23612, and, if so requested, the arresting officer

1 shall have the test performed. A conviction of a violation
2 of this section shall be punished by a fine of not more than
3 two hundred fifty dollars (\$250).

4 ~~SEC. 25.~~

5 *SEC. 26.* Section 23612 of the Vehicle Code is
6 amended to read:

7 23612. (a) (1) (A) Any person who drives a motor
8 vehicle is deemed to have given his or her consent to
9 chemical testing of his or her blood or breath for the
10 purpose of determining the alcoholic content of his or her
11 blood, if lawfully arrested for any offense allegedly
12 committed in violation of Section 23140, 23152, or 23153.
13 If a blood or breath test, or both, are unavailable, then
14 paragraph (2) of subdivision (d) applies.

15 (B) Any person who drives a motor vehicle is deemed
16 to have given his or her consent to chemical testing of his
17 or her blood or urine for the purpose of determining the
18 drug content of his or her blood, if lawfully arrested for
19 any offense allegedly committed in violation of Section
20 23140, 23152, or 23153.

21 (C) The testing shall be incidental to a lawful arrest
22 and administered at the direction of a peace officer
23 having reasonable cause to believe the person was driving
24 a motor vehicle in violation of Section 23140, 23152, or
25 23153.

26 (D) The person shall be told that his or her failure to
27 submit to, or the failure to complete, the required
28 chemical testing will result in a fine, mandatory
29 imprisonment if the person is convicted of a violation of
30 Section 23152 or 23153, and (i) the suspension of the
31 person's privilege to operate a motor vehicle for a period
32 of one year, (ii) the revocation of the person's privilege
33 to operate a motor vehicle for a period of two years if the
34 refusal occurs within seven years of a separate violation
35 of Section 23103 as specified in Section 23103.5, or of
36 Section 23140, 23152, or 23153, or of Section 191.5 or
37 paragraph (3) of subdivision (c) of Section 192 of the
38 Penal Code that resulted in a conviction, or if the person's
39 privilege to operate a motor vehicle has been suspended
40 or revoked pursuant to Section 13353, 13353.1, or 13353.2

1 for an offense that occurred on a separate occasion, or
2 (iii) the revocation of the person's privilege to operate a
3 motor vehicle for a period of three years if the refusal
4 occurs within seven years of two or more separate
5 violations of Section 23103 as specified in Section 23103.5,
6 or of Section 23140, 23152, or 23153, or of Section 191.5 or
7 paragraph (3) of subdivision (c) of Section 192 of the
8 Penal Code, or any combination thereof, that resulted in
9 convictions, or if the person's privilege to operate a motor
10 vehicle has been suspended or revoked two or more times
11 pursuant to Section 13353, 13353.1, or 13353.2 for offenses
12 that occurred on separate occasions, or if there is any
13 combination of those convictions or administrative
14 suspensions or revocations.

15 (2) (A) If the person is lawfully arrested for driving
16 under the influence of an alcoholic beverage, the person
17 has the choice of whether the test shall be of his or her
18 blood or breath and the officer shall advise the person that
19 he or she has that choice. If the person arrested either is
20 incapable, or states that he or she is incapable, of
21 completing the chosen test, the person shall submit to the
22 remaining test. If a blood or breath test, or both, are
23 unavailable, then paragraph (2) of subdivision (d)
24 applies.

25 (B) If the person is lawfully arrested for driving under
26 the influence of any drug or the combined influence of an
27 alcoholic beverage and any drug, the person has the
28 choice of whether the test shall be of his or her blood,
29 breath, or urine, and the officer shall advise the person
30 that he or she has that choice.

31 (C) A person who chooses to submit to a breath test
32 may also be requested to submit to a blood or urine test
33 if the officer has reasonable cause to believe that the
34 person was driving under the influence of any drug or the
35 combined influence of an alcoholic beverage and any
36 drug and if the officer has a clear indication that a blood
37 or urine test will reveal evidence of the person being
38 under the influence. The officer shall state in his or her
39 report the facts upon which that belief and that clear
40 indication are based. The person has the choice of

1 submitting to and completing a blood or urine test, and
2 the officer shall advise the person that he or she is
3 required to submit to an additional test and that he or she
4 may choose a test of either blood or urine. If the person
5 arrested either is incapable, or states that he or she is
6 incapable, of completing either chosen test, the person
7 shall submit to and complete the other remaining test.

8 (3) If the person is lawfully arrested for an offense
9 allegedly committed in violation of Section 23140, 23152,
10 or 23153, and, because of the need for medical treatment,
11 the person is first transported to a medical facility where
12 it is not feasible to administer a particular test of, or to
13 obtain a particular sample of, the person's blood, breath,
14 or urine, the person has the choice of those tests that are
15 available at the facility to which that person has been
16 transported. In that case, the officer shall advise the
17 person of those tests that are available at the medical
18 facility and that the person's choice is limited to those
19 tests that are available.

20 (4) The officer shall also advise the person that he or
21 she does not have the right to have an attorney present
22 before stating whether he or she will submit to a test or
23 tests, before deciding which test or tests to take, or during
24 administration of the test or tests chosen, and that, in the
25 event of refusal to submit to a test or tests, the refusal may
26 be used against him or her in a court of law.

27 (5) Any person who is unconscious or otherwise in a
28 condition rendering him or her incapable of refusal is
29 deemed not to have withdrawn his or her consent and a
30 test or tests may be administered whether or not the
31 person is told that his or her failure to submit to, or the
32 noncompletion of, the test or tests will result in the
33 suspension or revocation of his or her privilege to operate
34 a motor vehicle. Any person who is dead is deemed not
35 to have withdrawn his or her consent and a test or tests
36 may be administered at the direction of a peace officer.

37 (b) Any person who is afflicted with hemophilia is
38 exempt from the blood test required by this section.

39 (c) Any person who is afflicted with a heart condition
40 and is using an anticoagulant under the direction of a

1 licensed physician and surgeon is exempt from the blood
2 test required by this section.

3 (d) (1) A person lawfully arrested for any offense
4 allegedly committed while the person was driving a
5 motor vehicle in violation of Section 23140, 23152, or 23153
6 may request the arresting officer to have a chemical test
7 made of the arrested person's blood or breath for the
8 purpose of determining the alcoholic content of that
9 person's blood, and, if so requested, the arresting officer
10 shall have the test performed.

11 (2) If a blood or breath test is not available under
12 subparagraph (A) of paragraph (1) of subdivision (a), or
13 under subparagraph (A) of paragraph (2) of subdivision
14 (a), or under paragraph (1) of this subdivision, the person
15 shall submit to the remaining test in order to determine
16 the percent, by weight, of alcohol in the person's blood.
17 If both the blood and breath tests are unavailable, the
18 person shall be deemed to have given his or her consent
19 to chemical testing of his or her urine and shall submit to
20 a urine test.

21 (e) If the person, who has been arrested for a violation
22 of Section 23140, 23152, or 23153, refuses or fails to
23 complete a chemical test or tests, or requests that a blood
24 or urine test be taken, the peace officer, acting on behalf
25 of the department, shall serve the notice of the order of
26 suspension or revocation of the person's privilege to
27 operate a motor vehicle personally on the arrested
28 person. The notice shall be on a form provided by the
29 department.

30 (f) If the peace officer serves the notice of the order
31 of suspension or revocation of the person's privilege to
32 operate a motor vehicle, the peace officer shall take
33 possession of any driver's license issued by this state which
34 is held by the person. The temporary driver's license shall
35 be an endorsement on the notice of the order of
36 suspension and shall be valid for 30 days from the date of
37 arrest.

38 (g) (1) The peace officer shall immediately forward
39 a copy of the completed notice of suspension or
40 revocation form and any driver's license taken into

1 possession under subdivision (f), with the report required
2 by Section 13380, to the department. If the person
3 submitted to a blood or urine test, the peace officer shall
4 forward the results immediately to the appropriate
5 forensic laboratory. The forensic laboratory shall forward
6 the results of the chemical tests to the department within
7 15 calendar days of the date of the arrest.

8 (2) (A) Notwithstanding any other provision of law,
9 any document containing data prepared and maintained
10 in the governmental forensic laboratory computerized
11 data base system that is electronically transmitted or
12 retrieved through public or private computer networks
13 to or by the department is the best available evidence of
14 the chemical test results in all administrative proceedings
15 conducted by the department. In order to be admissible
16 as evidence in administrative proceedings, a document
17 described in this subparagraph shall bear a certification
18 by the employee of the department who retrieved the
19 document certifying that the information was received or
20 retrieved directly from the computerized data base
21 system of a governmental forensic laboratory and that the
22 document accurately reflects the data received or
23 retrieved.

24 (B) Notwithstanding any other provision of law, the
25 failure of an employee of the department to certify under
26 subparagraph (A) is not a public offense.

27 (h) A preliminary alcohol screening test that indicates
28 the presence or concentration of alcohol based on a
29 breath sample in order to establish reasonable cause to
30 believe the person was driving a vehicle in violation of
31 Section 23140, 23152, or 23153 is a field sobriety test and
32 may be used by an officer as a further investigative tool.

33 (i) If the officer decides to use a preliminary alcohol
34 screening test, the officer shall advise the person that he
35 or she is requesting that person to take a preliminary
36 alcohol screening test to assist the officer in determining
37 if that person is under the influence of alcohol or drugs,
38 or a combination of alcohol and drugs. The person's
39 obligation to submit to a blood, breath, or urine test, as
40 required by this section, for the purpose of determining

1 the alcohol or drug content of that person's blood, is not
2 satisfied by the person submitting to a preliminary
3 alcohol screening test. The officer shall advise the person
4 of that fact and of the person's right to refuse to take the
5 preliminary alcohol screening test.

6 ~~SEC. 26.~~

7 *SEC. 27.* Section 727.2 of the Welfare and Institutions
8 Code, as added by Chapter 995 of the Statutes of 1999, is
9 amended and renumbered to read:

10 727.6. Where any minor has been adjudged a ward of
11 the court for the commission of a "sexually violent
12 offense," as defined in Section 6600, and committed to the
13 Department of the Youth Authority, the ward shall be
14 given sexual offender treatment consistent with protocols
15 for that treatment developed or implemented by the
16 Department of the Youth Authority.

17 ~~SEC. 27.~~

18 *SEC. 28.* Section 727.4 of the Welfare and Institutions
19 Code is amended to read:

20 727.4. (a) Notice of any hearing pursuant to Section
21 727 shall be mailed by the probation officer to the child,
22 the child's parent or guardian, any adult provider of care
23 to the child including, but not limited to, foster parents,
24 relative caregivers, preadoptive parents, community
25 care facility, or foster family agency and to the counsel of
26 record if the counsel of record was not present at the time
27 that the hearing was set by the court, by first-class mail
28 addressed to the last known address of the person to be
29 notified, or shall be personally served on those persons,
30 not earlier than 30 days nor later than 15 days preceding
31 the date of the hearing. The notice shall contain a
32 statement regarding the nature of the status review or
33 permanency planning hearing and any change in the
34 custody or status of the child being recommended by the
35 probation department. The notice shall also include a
36 statement informing the foster parents, relative
37 caregivers, or preadoptive parents that he or she may
38 attend all hearings or may submit any information he or
39 she deems relevant to the court in writing. The foster
40 parents, relative caregiver, and preadoptive parents are

1 entitled to notice and opportunity to be heard but need
2 not be made parties to the proceedings.

3 (b) At least 10 calendar days prior to each status
4 review and permanency planning hearing, after the
5 hearing during which the court orders that the care,
6 custody and control of the minor to be under the
7 supervision of the probation officer for placement
8 pursuant to subdivision (a) of Section 727, the probation
9 officer shall file a social study report with the court. The
10 social study report shall include, but not be limited to, the
11 following information:

12 (1) Progress toward goals established in the case plan
13 previously submitted to the court.

14 (2) The extent of progress that has been made toward
15 alleviating or mitigating the causes necessitating
16 placement in foster care.

17 (3) The safety of the child and the continuing
18 necessity for and appropriateness of the placement.

19 (4) A likely date by which the child may be returned
20 to and safely maintained in the home or placed for
21 adoption or legal guardianship.

22 (5) An updated case plan as specified in Section 706.6.

23 (6) Whether the child has been or will be referred to
24 educational services and what services the child is
25 receiving, including special education and related
26 services if the child has exceptional needs as described in
27 Part 30 (commencing with Section 56000) of Division 4 of
28 Title 2 of the Education Code or accommodations if the
29 child has disabilities as described in Chapter 16 of Title 29
30 of the United States Code Annotated. The social worker
31 or child advocate shall solicit comments from the
32 appropriate local education agency prior to completion
33 of the social study.

34 (7) Whether the right of the parent or guardian to
35 make educational decisions for the child should be limited
36 by the court pursuant to Section 7579.5 of the
37 Government Code.

38 (c) The probation department shall inform the child,
39 the child's parent or guardian, and all counsel of record
40 that a copy of the social study prepared for the hearing



1 will be available 10 days prior to the hearing and may be
2 obtained from the probation officer.

3 (d) As used in this section:

4 (1) “Foster care” means residential care provided in
5 any of the settings described in Section 11402.

6 (2) “At risk of entering foster care” means that
7 conditions within a child’s family may necessitate his or
8 her entry into foster care unless those conditions are
9 resolved.

10 (3) “Preadoptive parent” means a licensed foster
11 parent who has been approved for adoption by the State
12 Department of Social Services when it is acting as an
13 adoption agency or by a licensed adoption agency.

14 (4) “Date of entry into foster care” means the date
15 that is 60 days after the date on which the minor was
16 removed from his or her home.

17 (5) “Reasonable efforts” are those efforts made to
18 prevent or eliminate the need for removing the minor
19 from the minor’s home, and efforts to make it possible for
20 the minor to return home, including, but not limited to,
21 case management, counseling, parenting training,
22 mentoring programs, vocational training, educational
23 services, substance abuse treatment, transportation, and
24 therapeutic day services.

25 (6) “Relative” means an adult who is related to the
26 child by blood, adoption, or affinity within the fifth
27 degree of kinship including stepparents, stepsiblings, and
28 all relatives whose status is preceded by the words
29 “great,” “great-great,” “grand,” or the spouse of any of
30 these persons even if the marriage was terminated by
31 death or dissolution.

32 ~~SEC. 28.~~

33 SEC. 29. Section 15610.63 of the Welfare and
34 Institutions Code is amended to read:

35 15610.63. “Physical abuse” means any of the
36 following:

37 (a) Assault, as defined in Section 240 of the Penal
38 Code.

39 (b) Battery, as defined in Section 242 of the Penal
40 Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Spousal rape, as defined in Section 262 of the Penal Code.

(5) Incest, as defined in Section 285 of the Penal Code.

(6) Sodomy, as defined in Section 286 of the Penal Code.

(7) Oral copulation, as defined in Section 288a of the Penal Code.

(8) Sexual penetration, as defined in Section 289 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

(1) For punishment.

(2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.

(3) For any purpose not authorized by the physician and surgeon.

~~SEC. 29.~~

SEC. 30. The amendments made by Section 22 of this act to Section 12022.53 of the Penal Code are technical only and do not make any substantive change to that section.

~~SEC. 30.~~

SEC. 31. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the

1 state, reimbursement to local agencies and school
2 districts for those costs shall be made pursuant to Part 7
3 (commencing with Section 17500) of Division 4 of Title
4 2 of the Government Code. If the statewide cost of the
5 claim for reimbursement does not exceed one million
6 dollars (\$1,000,000), reimbursement shall be made from
7 the State Mandates Claims Fund.

8 ~~SEC. 31.~~

9 *SEC. 32.* Any section of any act enacted by the
10 Legislature during the 2000 calendar year that takes
11 effect on or before January 1, 2001, and that amends,
12 amends and renumbers, adds, repeals and adds, or repeals
13 any one or more of the sections affected by this act shall
14 prevail over this act, whether that act is enacted prior to,
15 or subsequent to, the enactment of this act. The repeal,
16 or repeal and addition, of any article, chapter, part, title,
17 or division of any code by this act shall not become
18 operative if any section of any other act that is enacted by
19 the Legislature during the 2000 calendar year and takes
20 effect on or before January 1, 2001, amends, amends and
21 renumbers, adds, repeals and adds, or repeals any section
22 contained in that article, chapter, part, title, or division.

